THE

TRIAL OF JOHN ROSE,

FOR

CRIMINAL CONVERSATION

WITH

CLARA LOUISA MIDDELTON,

THE WIFE OF

WILLIAM MIDDELTON, of *Stockeld-Park*, Esq.

518. L. 12
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MIDDELTON *verſus* ROSE.

A

REPORT OF AN ACTION

BROUGHT IN

HIS MAJESTY's COURT OF KING's BENCH,

BY

WILLIAM MIDDELTON, of *Stockeld-Park*, Eſq.

AGAINST

JOHN ROSE, his Groom,

For Criminal Converſation with

CLARA LOUISA MIDDELTON,

THE WIFE OF Mr. MIDDELTON.

TAKEN IN SHORT HAND BY J. H. BLANCHARD.

WITH EXPLANATORY NOTES,

And a ſhort Sketch of the Proceedings of the Spiritual Court in the Suit for a Divorce ſtill pending between Mr. Middelton and his Wife.

LONDON:

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1795.

A SHORT

INTRODUCTORY HISTORY OF THE CAUSE.

THE publicity, chaſtity and impartiality of the laws of England have ever commanded the admiration of ſtrangers, as they have formed the happineſs of thoſe who enjoyed their bleſſed effects. The great ends of public juſtice would be defeated, if judgments and verdicts were to be kept from the eye of the public, who are immediately concerned in their conſequences. No act of the law can paſs, which when fairly and properly repreſented may not produce the moſt beneficial effects upon ſociety. It is indeed poſſible, that perverſe curioſity may ſometimes divert the moſt inſtructive leſſons to a vicious purpoſe. Our law overlooks ſuch incidental poſſibilities of human corruption, and does not ſuppreſs the examination and puniſhment of immorality, becauſe ſome individuals may not draw the intended benefit from the exemplary reprehenſion and puniſhment of delinquents. The life of the law of England conſiſts in precedents: theſe can only be known by reports: the more full and exact ſuch reports are, the more juſtly and preciſely can the caſes in point be followed: hence has ariſen the uſage of taking down in ſhort hand the proceedings in ſuch trials, as are of a more intereſting nature. Where a cauſe of general tendency to the moral good of ſociety has received a deciſion in a court of juſtice, that carries with it any thing exemplary, the full and fair report of it to the public becomes a commendable co-operation with the views of public juſtice.

As this report is more immediately intended for the public at large, than for the Gentlemen of the Long Robe, for whoſe uſe reports are moſt uſually publiſhed, it is found requiſite for the thorough underſtanding of the caſe to premiſe ſome circumſtances relating to it, that will render it perhaps more intelligible to the generality of readers, than it would be from the bare report of what paſſed in open court.

Mr. Middelton of Stockeld in Yorkſhire, being under his uncle's (the late Mr. Middelton) will in poſſeſſion of a very handſome eſtate in that county, in the 23d year of his age married Miſs Grace, a young lady of Ireland, on the 11th of February 1782. She was much admired for her beauty and ſocial accompliſhments. Her fortune was about 2000l. and ſhe was then in the 20th year of her age. From this time till the month of April 1793, Mr. and Mrs. Middelton continued to all appearance to live in the moſt deſirable harmony and domeſtic happineſs. She bore him nine children, ſix of which were living at the time of their unfortunate ſeparation. Some months before this took place, obſervations and reports were made in the family at Stockeld upon Mrs. Middelton's familiarities with the groom. When they at laſt reached the ears of Mr. Middelton, he thought them ſo falſe and ſcandalous, that he went to London, for the expreſs purpoſe of taking advice in what manner he could moſt effectually proſecute thoſe ſervants, who had raiſed or propagated ſuch infamous and improbable tales of his wife. During his abſence from Stockeld upon this errand, the famous night ſcene took place, which will be hereafter more minutely detailed in the evidence of John Davis and Daniel Macanulty.

One day after Mr. Middelton's return from London, his butler John Davis detailed to him ſo circumſtantially the miſconduct of his miſtreſs during his maſter's abſence, that his eyes began to be opened, and he immediately ſet out for York, and brought back with him to Stockeld two very reſpectable gentlemen, acquaintance of the family, to make proper enquiries into this moſt unaccountable miſbehaviour of his wife. The ſervants were called up ſucceſſively and examined by the two gentlemen from York, who took down their evidence in writing: this was on the 4th of April *. Mrs. Middelton choſe to be preſent at their examination. Mr. Middelton was not. Their report to him was ſuch, as induced Mr. Middelton the next morning to ſend his wife from Stockeld to her mother Mrs. Grace, in London. She was accompanied by her maid, and Mr. Middelton's coachman William Greaves, who, notwithſtanding his maſter's orders to return to Stockeld when

* It is remarkable, that on the 4th of the following January (exactly nine calendar months to a day) Mrs. Middelton was brought to bed of a daughter, who was chriſtened by the name of Barbara, with rather more than ordinary ſolemnity, the ſponſors being the Earl of Fingal and Barbara Counteſs of Shafteſbury.

heſhould have ſeen her ſafe at her mother's, has continued ever ſince in her ſervice.

In reporting the evidence given in the Sheriff's Court in the cauſe of *Middelton* v. *Roſe*, it might be thought uncandid to ſtate any other facts, relative to the caſe, eſpecially as the ſuit in the Spiritual Court for the divorce is ſtill pending; and we undertake not to report thoſe proceedings, as no ſentence has as yet paſſed upon an uncommon and immenſe maſs of evidence, that has been taken and already paſſed publication in that Court. It would be indecorous to publiſh any obvervations upon the merits or demerits of the evidence given in the Spiritual Courts in a cauſe, which ſtill awaits its deciſion. We ſhall therefore ſcrupulouſly avoid touching upon the merits of Mr. Middelton's ſuit againſt his Lady for a divorce. The civil action for damages, which he has brought againſt his Groom, and in which he has recovered 500l. is totally ſeparate and diſtinct, and independent of all proceedings in the Spiritual Courts, which take no cognizance of a verdict obtained in a Common Law Court by any of the parties to their ſuits.

It is proper to obſerve, that it generally happens, in the unfortunate caſes of wives' infidelities, that the huſband brings his action for damages againſt her illicit paramour as ſoon as or before he applies to the *Spiritual* Court. The general reaſon of this is, where the recovery of *damages* is not a material object, to procure a verdict as the ground for applying to Parliament for an Act to enable the divorced parties to marry again. Mr. and Mrs. Middelton are both Roman Catholics, and according to the tenets of their perſuaſion, marriage is a ſacrament, and forms that indiſſoluble union of the contracting parties before God, which no *civil* power of man can diſſolve; according to the literal ſenſe of the words, *What God hath joined, let no man put aſunder.* If even then Mr. Middelton ſhould ſucceed in his ſuit for a divorce in the Spiritual Court, which would only be *a menſa et thoro*, from bed and board, and not *a vinculo matrimonii*, from the tie of marriage, his application to Parliament for the purpoſe of being enabled to marry again would be uſeleſs: and for this reaſon he had for a long time laid aſide all thoughts of bringing a *civil* action for damages againſt this John Roſe.

When once Mr. Middelton had taken the ſtrong meaſure of ſending his Lady out of his houſe to her mother, after a ſort of public examination before her own domeſtics, he immediately inſtituted a ſuit for a divorce in the Epiſcopal Conſiſtorial Court of London. As this ſuit has not yet been deter-

mined, it is fitting to apprize the public, without entering into the merits of the caſe, what has been the progreſs of it hitherto. In Trinity Term 1793, Mr. Middelton exhibited his libel or allegation in the Conſiſtorial Court of London, before Sir William Scott, in which he ſet forth, as uſual in ſuch caſes, his charges againſt his wife. Mr. Middelton's Counſel in the Spiritual Court are Doctors Nicholl and Lawrence; his Proctor Mr. Stevens.

In the enſuing Michaelmas Term, Mrs. Middelton gave in her *reſponſive allegation* to the libel that had been admitted againſt her. Her Counſel in the Spiritual Court are Doctors Battine and Swabey; her Proctor Mr. Slade. Some unneceſſary delay was occaſioned by this reſponſive allegation. When it came to be argued in Court, Sir William Scott grievouſly complained of the maſs of redundant and irrelevant matter, which it contained. Amongſt other things the learned Judge ſaid, "*This allegation is in ſuch a form, as will never enable me to get at the material parts of the caſe; and it appears to me, if I ſuffered it, I ſhould bequeath a legacy to unborn Judges,*" &c. And at the concluſion of his ſpeech he added, "If the Gentlemen ſhould differ from me "in opinion, if they ſhould remain of opinion, that it is a proper plea in its "preſent form to be tendered to the Court, I know very well, it is my duty to "accept it, ſubject to the objections, which ſhall be made by the Counſel on "the other ſide, and to my own ſenſe of the weight of thoſe objections. But "I muſt ſay, I ſhall regret it exceedingly. On my own account, I ſhall much "regret the drudgery of reading through theſe cart-loads of traſh, with which "it is at preſent loaded," &c. &c. This reſponſive allegation was withdrawn for amendments; and in ſome months afterwards a freſh reſponſive plea to Mr. Middelton's original libel was given into Court; which Mr. Middelton's Counſel did not oppoſe, and which was admitted by the Court.

After this, a variety of witneſſes were examined by each party in ſupport of their reſpective pleas. The examination of all theſe took up neceſſarily a great length of time; for Mrs. Middelton took out requiſitions to examine witneſſes both in York and Ireland. Several of the witneſſes were two, ſome three, and others four days under examination. Mrs. Middelton examined twenty-ſeven witneſſes in town, twenty-nine in York, and three in Ireland. Some of the firſt characters in the nation came forward in her ſupport; amongſt the reſt the preſent Chancellor Lord Loughborough, Lord and Lady Hawke, Lady Harewood, &c. &c. Mr. Middelton on his part examined to his original libel twenty-three witneſſes, and to her reſponſive allegation twenty-

twenty-eight. Publication paſſed on the laſt day of Trinity Term 1794, ſo that during the long vacation this unprecedented maſs of evidence was copied out for the contending parties on both ſides.

At the end of Michaelmas Term 1794, Mrs. Middelton gave into Court what is called an *exceptive allegation*, by which ſhe charged ſeveral of Mr. Middelton's witneſſes with having depoſed corruptly and falſely. Certain parts of this plea were admitted by the Court*.

Soon after this period Mr. Middelton was apprized of thoſe facts and ſcenes at Loweſtoff, of which the evidence is contained in the enſuing report; and he was accordingly adviſed to give in a ſecond allegation, containing theſe charges againſt his wife, which had happened and come to his knowledge ſince the admiſſion of his original libel. This ſecond allegation was warmly oppoſed by her Counſel, but was admitted by the Court. Mrs. Middelton immediately appealed to the Court of Arches, but it is not yet known for certain whether ſhe will deſert or proſecute her appeal. Sir William Scott however made no ſcruple of ſaying explicitly in Court, that under all the circumſtances of the caſe, he thought her *very ill-adviſed*. An *inhibition* however from the Arches Court of Canterbury was ſerved upon the parties on the 3d of March, which puts an end for the preſent to all proceedings in the Conſiſtorial Court of London.

Thus ſtands Mr. Middelton's ſuit for a divorce in the Spiritual Court; the merits of the caſe have never as yet been under the conſideration of the Court. The public may hence learn, by what means a ſuit in thoſe Courts may by the contrivance of either party, whoſe intereſt it is to delay it, or whoſe wiſh it is to enhance the expences, to protract the ultimate iſſue for years.

As Mr. Middelton had ſpent ſo much time and money † in the Spiritual Court without any immediate proſpect of a final iſſue to his ſuit, he was adviſed to bring his action for damages againſt John Roſe in the Court of King's

* It is to be noticed, that the admiſſion of a plea by the Court, is not the ſentence or opinion of the Court upon the truth or falſity of the charges, but only, that the charges in the plea are of ſuch a nature, that if they can be ſupported they are material to the cauſe, and the Court may therefore with propriety go into them.

† He has not only paid immenſe ſums for the proceedings in the ſuit, but Mrs. Middelton has had an allowance of 600l. per annum from the Court pending the ſuit. The jointure ſettled upon her before marriage was 500l. per annum.

Bench, in order that ſome eclairciſſement might be given to the public upon the caſe. Matters were ſo contrived, that when Roſe was ſerved with the copy of the writ, he was confronted with perſons who knew him, as John Roſe the groom at Stockeld, Mr. Richards an independent ſort of a gentleman acquainted with Mrs. Middelton at Loweſtoff in Suffolk, and as Mr. Robinſon, the name he then went by, at well-furniſhed lodgings, almoſt daily viſited by a lady called Miſs Robinſon his ſiſter; though John Roſe has only one ſiſter, now living as a maid at an alehouſe in Yorkſhire. As John Roſe did not think proper to defend the action, judgment of courſe went by default againſt him. As ſuch a judgment gave no ſpecific damages, Mr. Middelton was under the neceſſity of executing a writ of enquiry in the Sheriff's Court, that the damages might be aſſeſſed by the Sheriff's Jury.

In this Court, Mr. Middelton's Counſel were Meſſrs. Shepherd and Maryatt; his Attorney, Mr. Sykes of New-Inn.

IN

IN THE SHERIFF's COURT,

FEBRUARY 28th, 1795.

MIDDELTON, Esq. *against* JOHN ROSE.

NAMES of the JURORS.

THOMAS DRUCE, of *Chancery-Lane*, *Law-Stationer*, FOREMAN.

WILLIAM WYATT,
WILLIAM FLEXNEY,
THOMAS GOWLAND,
WILLIAM BOWDLER,
JOHN PETERS,
JOHN LAMBERT,
WILLIAM HAWSWORTH,
GEORGE WHITEHEAD,
JOHN BAGSHAW,
BENJAMIN BANKS,
ROBERT BISHOP.

MR. SHEPHERD.

GENTLEMEN OF THE JURY,

I AM counsel in this action for Mr. Middelton the plaintiff, against John Rose the defendant. It is an action brought for criminal conversation with the plaintiff's wife; and it sometimes happens, when such a case is stated, it raises in the minds and in the countenance of those who first hear it, a degree of smile or a sort of frivolous feeling: but if at that moment any man considers the nature of the complaint which the plaintiff is making, a moment's serious consideration does away every light feeling upon the subject,

ject, and muſt convince every man of thought, that there cannot be a more ſerious ſubject of diſcuſſion in a court of juſtice.

Gentlemen, upon this occaſion I ſhall take the liberty of ſtating to you rather more at large, the circumſtances of this caſe than is generally done when a writ of enquiry is executed, becauſe you know, from the nature of the proceeding here, the defendant has admitted two very important facts, which, if he had choſen to deny the charge againſt him, the plaintiff muſt have proved, namely, the fact of the marriage, and the more important fact, *that* of the adultery. But he was well adviſed, I have no doubt; and under the ſame circumſtances has certainly purſued the ſame advice I ſhould have given him, had he conſulted me: he has thought fit to confeſs thoſe two important facts, and to leave the only ſubject of real diſcuſſion, the amount of damages the plaintiff ought to receive: but, as I ſaid, notwithſtanding that, I ſhall take the liberty of fully ſtating to you the very extraordinary and cruel circumſtances of this caſe, and of fully proving the facts to you; and for this reaſon, becauſe I underſtand (I know it is ſo, in conſequence of what I have ſeen of the proceedings in another court, where this complaint muſt alſo be the ſubject of litigation) that ſome perſons, whether wickedly and maliciouſly, or ignorantly and fooliſhly, I care not, have taken upon themſelves to caſt aſperſions upon the conduct of Mr. Middelton, which if they could have been proved at all, might have been ſo, not before a jury executing a writ of enquiry, but before a jury inveſtigating the whole of the facts before they went to aſſeſs the damages.

Gentlemen, the nature of this complaint it is hardly neceſſary to comment upon: every man, who is the huſband of a wife, for whom he has any affection at all; every man who is the father of children, for whom he feels that delight and tenderneſs which every man of common conceptions muſt feel; nay, to go further, every young man who happens to have a ſiſter or a female belonging to him, muſt know, there cannot be a more ſerious charge of a civil nature againſt any human being than that of alienating the affections of a wife from the huſband, and depriving him of the greateſt comfort that perhaps is to be known in this life, that is, of a wife and a mother to his children.

Gentlemen, Mr. Middelton is a man of very conſiderable fortune and family in the county of York, living in all reſpects up to his rank and ſituation in life. Mrs. Middelton, who is the daughter of a Mrs. Grace, was married to him in the twentieth year of her age, in the month of February 1782, by the

conſent

conſent of friends on his ſide, and by the conſent of her mother on hers; and certainly Mrs. Middelton at that time ſhewed and diſplayed every perſonal accompliſhment, every mental endowment, every grace and trait of virtuous conduct, that could entitle her to become the wife of Mr. Middelton. Gentlemen, ſo much the greater injury has been done to Mr. Middelton, and ſo much more muſt he feel, that he has been thus unfortunately deprived of thoſe accompliſhments which ſhe poſſeſſed.

Gentlemen, this lady had alſo, to the great joy of Mr. Middelton moſt certainly, become the mother of many children; and for many years, I believe, Mr. and Mrs. Middelton lived in a ſtate of perfect conjugal felicity, or at leaſt as perfect as the infirmities of human nature ſuffer that or any other ſtate to be; and as far as related to Mr. Middelton, till almoſt the very hour of the diſcovery of this fact it was a ſtate of the moſt deſirable domeſtic happineſs.

Gentlemen, on the other ſide of the table you do not ſee any learned counſel for the defendant; I wiſh you did; I wiſh you ſaw in the place of my friend * who ſits there, any or all of the ableſt practiſers at the bar. I wiſh you did with all my heart, becauſe I ſhould then have an opportunity of throwing out defiance to them, either by argument or by any powers which the human mind is capable of to caſt the ſmalleſt imputation upon the conduct of Mr. Middelton during any part of thoſe years which he lived the affectionate huſband of his wife. Thoſe who have adviſed the defendant have adviſed him well; and I will tell you why: becauſe they might ſuppoſe, that if he did attend here by learned and able counſel, and the counſel could not do that, which I ſay they could not do by all their ingenuity and all their endeavours, that is, throw a degree of doubt upon the conduct of Mr. Middelton or ſuſpicion upon this caſe—then, under ſuch circumſtances, the jury would be inclined to give very large damages. Be not led away by any ſuch impreſſion as that; becauſe, if you be, it affords a means for artful advice; and when I ſay that, I don't mean to apply it to the adviſer, but it is affording means through that medium of actually defeating the ends of juſtice. You will ſee in the ſequel, this man might have attended if he would by counſel, and that he might have found, and has found, a very liberal ſupporter through the whole buſineſs, namely, Mrs. Middelton, to whoſe liberal ſupport he is indebted for the ſituation in which he is now placed; and I think you will find this man is not a man abandoned to poverty and diſtreſs, but that he riots and

* Mr. Allen, the attorney of Mrs. Middelton; vide his ſpeech hereafter.

wallows in the luxury which ariſes from the perpetration of his own ingratitude and offences.

Gentlemen, the defendant was a ſervant to Mr. Middelton; and when I reflect upon the ſituation of maſter and ſervant, it brings to my mind an exclamation which is put into the mouth of a character by a moſt able and ſublime poet, who ſays, "Falſe to me!—that is foul; and with mine own officer—that is fouler ſtill." So I ſay here, Gentlemen: Falſe to Mr. Middelton, 'twas foul; but with his own ſervant, it was much fouler than if it had been with any other perſon. Let us recollect a little the ſituation in which every man muſt be put who holds a rank in life beyond the meaneſt and commoneſt man. No man in a middling ſituation, or in a very moderate rank, and ſtill leſs a man in that ſituation which Mr. Middelton's rank and fortune entitle him to, can poſſibly paſs through ſociety without the intervention of ſervants. In them there muſt be a degree of confidence placed by every maſter to a certain extent; they muſt have opportunities of committing not only frauds upon the property, but frauds upon the maſter's comfort and tranquillity, beyond what any other character can have. The duty and relative ſituation of maſter and ſervant is a degree of relationſhip; and it has been truly ſaid, A faithful ſervant is an humble friend. Moſt certainly he is ſo: but on the reverſe, an infamous, baſe, and treacherous ſervant is one of the bittereſt enemies, and one of the keeneſt-biting vipers that can find its way into human ſociety.

Gentlemen, Mr. Middelton, who lived with this lady at his houſe at Stockeld-Park in Yorkſhire for ſeveral years, had no reaſon himſelf till September in the year 1792 to ſuſpect Mrs. Middelton was at all unfaithful to him; I ſay *himſelf*; for you know, Gentlemen, by ſeeing as much as you do of human life, that a perſon is very often ſuſpected by others leſs intereſted, long before the ſmalleſt degree of ſuſpicion enters into the mind of him who is moſt intereſted in the good conduct of the wife. The fact is, the huſband is generally the laſt man that knows any thing of the matter; that is an obſervation which every man muſt make who knows any thing of human life and conduct: and why is it ſo? Becauſe, he being the man to be injured, is the perſon upon whom all artifice is uſed. It frequently does happen that there are perſons about the houſe, ſervants or others, who have an opportunity of ſeeing things long before the maſter has the ſmalleſt conception of them; and the ſituation of that ſervant who makes the obſervation of that which ſeems to him to be improper conduct, is of all others the moſt delicate. A man in the firſt place, or a woman, perhaps not with that degree of education

or

or firmneſs of mind which would induce you or me to take ſome ſtep upon the ſubject, and being in a ſituation, where all depends upon their character, where all depends upon the confidence the maſter or miſtreſs has in them, and feeling their own exiſtence in a manner to depend upon it, they neglect diſcloſing it till the full and broad ſhame comes ſtaring in the face of the huſband. Yet, give me leave to ſay, it is no reproach to perſons in their ſituations in life, if they do not at once diſcover all they have ſeen and know, leſt it ſhould be ſuppoſed they have ſome degree of malice, or ſome wicked intention that does not appear, and leſt they ſhould riſque the diſbelief of the very party to whom they communicate it. If there were ever one caſe more than another which warranted that obſervation, it is the very unfortunate caſe in which I have now the honour to addreſs you; and it will appear from the circumſtances I ſhall ſtate to you, becauſe it adds tenfold to the guilt of this defendant.

Gentlemen, it happened in this very caſe, that to Mr. Middelton ſuſpicions were communicated; and he who from the year 1782, for the ſpace of between ten and eleven years, had lived with his wife, the mother of his children, in the moſt conſtant ſtate of conjugal felicity, did that which every man of honour would do—though he ſhuddered at the information, he did not give full credit to it: he inveſtigated as far as he could the truth of it, and was ſo far from being ſatisfied, that by the contrivances and inſinuations of a very artful woman, I mean his wife, his ſuſpicions were lulled to ſleep. When ſuſpicion was firſt thrown upon her, ſhe convinced him of her innocence, and ſhe did it by the ſame means by which ſhe attempted afterwards to impoſe upon him: but I will venture to ſay there are ſuch damning facts, which till very lately did not come to the knowledge of Mr. Middelton, that it is impoſſible for her to get rid of them.

Gentlemen, in the year 1792 it was that certain attentions were firſt obſerved by a part of Mr. Middelton's family, and familiarities paſſing between this lady and Roſe, who was the groom in the family, which ſtruck them as very improper. There were converſations between the ſervants, and they did that which in my mind is not blamable, though I don't ſay it was exactly what I might have done had I been in their ſituations. I might have ſaid, Sir, your wife is not conducting herſelf as ſhe ſhould do. Whether any thing has paſſed that is criminal, I don't know; but I, being your friend or ſervant, think it neceſſary to tell you, that, if there is nothing criminal, yet there is a degree of familiarity that may lead to it. I think I ſhould have

ventured to do that, and that my underſtanding would have directed me to do *it*: but whether, if I had not a better education, if I had happened to have been in the ſituation of a ſervant in the houſe, and without ſome advantages which a great deal of intercourſe with the world has given me, whether I ſhould have had reſolution enough to have done that, I am not ſure.

Gentlemen, theſe ſervants did not communicate it to their maſter, but they did that which ſhewed a great deal of attention; nay I will ſay a great deal of affection; they did remonſtrate with her upon her conduct: but unfortunately, when once the boundaries of virtue are overleaped, repentance nine times in ten comes too late: and ſo it did in this caſe; for their remonſtrances were vain, and produced no effect: at laſt however one of the ſervants did make an application to a relation of Mr. Middelton's, Mr. Maxwell (I believe he is his brother). Mr. Maxwell having this communicated to him immediately ſent to his brother; and it was upon that occaſion Mr. Middelton, by the very artful inſinuations of a very accompliſhed and deceitful woman, had his ſuſpicions lulled to ſleep and in fact done away. The man who is the ſubject of this action quitted the ſervice; and he quitted the ſervice clearly, as will be manifeſted to you, for the purpoſe of lulling the ſuſpicions of Mr. Middelton, and not for the purpoſe of ceaſing to commit that crime by which he had injured his maſter. It will appear moſt manifeſtly, that not only after that time, but that now up to this very hour in which I am ſpeaking to you, this man is living in a ſtate of groſs and infamous adultery, ſupported by her means, and rioting in the wealth which ſhe is taking from her huſband's pocket. Though I don't complain of the loſs of property, yet I don't mean to urge pecuniary damages merely as an aggravation of guilt; for you will ſoon ſee that till this very hour their criminal intercourſe is continuing, and that the means, of ſupporting it are by the property which comes from the family, and therefore takes away from that of the children.

Gentlemen, in the year 1793, for ſeveral months improper familiarities were noticed; and when it was communicated by Mr. Maxwell, Mr. Middelton ſtated he had had his ſuſpicions done away; and he did what does him infinite honour: he ſaid, I am convinced my wife is innocent; and being ſo convinced, I am bound as a man of honour to protect her character againſt all the world that may venture to attack it. I will not ſhew that I harbour the ſmalleſt ſuſpicions, no not even a loop or hinge whereon to hang a doubt; therefore, as I am ſatisfied the ſtory is falſe, I will not ſuffer this man to quit my ſervice. Why won't I? Becauſe the meddling world will ſay, that however

ever

ever I may pretend to be ſatisfied, yet if I diſcharge this man, who has been made out as the object of ſuſpicion, the world will ſay, It is mighty well; and, to uſe a vulgar phraſe, He puts his horns in his pocket; for he would not have diſcharged the man unleſs there had been ſomething in it.

Gentlemen, he took him back; and he did it for another reaſon. He ſaid, If my wife be innocent, the charge againſt this man is falſe; ſhall I then ſacrifice this unfortunate man, when he is innocent? If he go away from my family, who will take him? for, if a ſervant quit his place, the maſter of any well-governed family, to whom he applies for employ, would ſay, Why did you diſcharge him from your employment? If Mr. Middelton had ſaid, what every body would know, Becauſe there was an imputation thrown upon him with reſpect to familiarities paſſing with my wife, which I don't believe, what would the other ſay? He would ſay, If you don't believe it, there is no cauſe for turning him out; but if you have a ſuſpicion, then it is not fit I ſhould take him in. If the thing be true, and he has conducted himſelf in ſuch a way; if he has been the violator of his maſter's honour, he is not an honeſt man, and is neither fit to have the property or the character, honour and ſafety of a family entruſted to him.

Gentlemen, upon that double and doubly honourable motive Mr. Middelton acted. He did retain him in his ſervice, and you will ſee how he was rewarded; and you ſhall ſee whether this fellow, who has dared to violate the honour of his maſter's bed, can make an anſwer to this charge, or whether he can make any thing like an anſwer to it.

Gentlemen, after he had been taken back again, which I think was about the month of March or April 1793, Mr. Middelton was under the neceſſity of going from his houſe to another ſeat he had, for two or three days.

Gentlemen, I hope to God we are not in England arrived to the neceſſity of becoming Spaniſh huſbands; and that it is not neceſſary for a man, who goes abroad for buſineſs or pleaſure, to lock his wife up in a room, or to place a Duenna over her. I hope we are not arrived at that ſtate, becauſe I believe, notwithſtanding vice and profligacy do ſtalk abroad with pretty large and gigantic ſtrides, I do believe there is that degree of virtue in my countrywomen, which does not require that ſort of guard. Mr. Middelton went to another houſe that he had, and you will ſee in Mrs. Middelton as cunning and artful a practiſer on his credulity as ever was. For when he was going, Mrs. Middelton with a degree of ingenuity, which, as it happens, is often uſed upon ſuch occaſions, which would have been ingenuouſneſs had it been innocent,

innocent, but if guilty makes it the more vile—ſhe ſaid, As *you* are going, Mr. Middelton, I think *John* may as well have an opportunity of going to ſee his friends at Northallerton.

Gentlemen, I am told ſhe wrote a letter to Mr. Middelton, ſaying, *John* might as well go to Northallerton. If the lady were innocent, it was a very prudent ſtep. If ſhe were guilty, as you ſhall ſee, it was perfectly artful; and an artifice, to which the defendant was a party: for this man went, as I believe, but two days before Mr. Middelton returned; and whilſt the family ſuppoſed he was at Northallerton, a circumſtance happened which raiſed ſuſpicions in the minds of the ſervants.

Gentlemen, there is in Mr. Middelton's houſe what they call a tribune or gallery; in that tribune there is a window, which has no faſtening on the outſide, but has a faſtening to the ſhutter on the inſide. One of the maid ſervants had ſhut this window, as it was her buſineſs: another ſervant coming through this gallery found it open; upon which he went and ſcolded the maid, who ſaid, I did ſhut it. Upon this the other ſaid, That cannot be; for it was open, and I have ſhut it ſince. This raiſed a ſuſpicion in the mind of a man of the name of Davis, and he was determined he would watch and ſee whether any thing paſſed, that he might have an opportunity of opening his maſter's eyes if the fact were true, and, if falſe, of ſatisfying and quieting his ſuſpicion. In conſequence of that, this man Davis, and I think a fellow ſervant of his, planted themſelves in the gallery in the night: after they had been there ſome time, they heard a knocking at one of the windows, as a ſort of ſignal, and I believe that knocking or ſignal was given by a female ſervant, who was the confidante clearly of Mrs. Middelton; for theſe things are never carried on without ſome one of that deſcription: and it is neceſſary, when a lady chooſes to carry on this ſort of traffic, to have ſome Abigail to aſſiſt her. Theſe men planted themſelves in the gallery, where it was obſerved this window was open: for I ſhould tell you, that after he had ſhut it, it was again opened by ſomebody and left open. At a certain hour of the night, ſomebody came into the window and went through the gallery; that perſon, as it turned out, was Roſe the defendant: he knocked at his miſtreſs's door, and upon his knocking he was aſked *Is it you, John?* He anſwered, Yes; and the door was opened, and in he went. Between five and ſix o'clock the next morning the chamber door was opened, and out came the defendant, and went down either to the ſtable or ſome other part of the houſe where he had his buſineſs.

Gentlemen,

Gentlemen, let us pauſe here, and conſider what the fact is. It is undoubted evidence even if we were trying the iſſue of an adulterous intercourſe: becauſe a man being admitted at a ſecret hour of the night into the chamber of a married woman, who was not his wife, and continuing there four or five hours, certainly induces an inference, that during that time he had not been ſleeping or praying—at leaſt not the whole of the time—whatever elſe he might have been about. But there is the moſt deciſive evidence of the fact of adultery, becauſe I ſhall call the ſervant who made the bed; and every body muſt know, when a bed is making, nothing is ſo eaſy as to ſee the impreſſion of one or two perſons; and in every caſe where that ſign is found in the bed, it is admitted as conſtant proof. When the bed was made in the morning, there was the impreſſion of two perſons. No other perſon could poſſibly have been there but Mrs. Middelton and this man John Roſe. When I ſtate that, you will conſider the circumſtance. Have I not a right to ſay, this miſcreant has exhibited himſelf not only a picture of vice but of ingratitude? Here was a maſter, who had his ſuſpicions raiſed; and having them lulled to ſleep, he took her to his boſom, and ſuffered him to continue in his houſe; yet this fellow contrived, when his maſter was abſent, in the dead of the night, to get into the houſe, and to violate his maſter's honour in his own conjugal bed whilſt he is abſent. It is true, the fact of adultery committed where it may be is ſtill the fact of adultery, and is ſtill the ſame in point of crime. So it is in point of religious duty and moral obligation: but when you conſider the honourable feelings of every man, let me aſk you, if ſuch a misfortune was neceſſarily to happen to you, where was the laſt place you would chooſe to have the ſcene acted? Every man will ſay his conjugal bed is the laſt. So ſay I: if there can be any thing more to violate the feelings of every man of ſentiment, of every man of honour, and every man of the ſmalleſt affection for his wife, it would be, having ſuch a ſcene tranſacted in the place which had afforded him comfort and happineſs for the ſpace of ten or eleven years.

Gentlemen, this fact being obſerved, the perſons who did obſerve it, felt it was impoſſible Mr. Middelton ſhould go on, and that it was neceſſary they ſhould clear the film from his eyes. In conſequence of that, they told him the fact which had happened. Mr. Middelton was aſtoniſhed and ſtaggered with horror. He ſaid, If this is true, or if any thing like it is true—if the man is not only in the houſe, but if he has been in the chamber of my wife, and continued there—ſhe muſt be guilty, whatever my feelings may be.

Gentlemen, in conſequence of that he inveſtigated it; it was proved too clearly, and Mrs. Middelton was diſcarded and ſent to her mother, who very properly took her under her protection.

Gentlemen, the cauſe does not ſtop here: but it has been wickedly, infamouſly, and maliciouſly inſinuated by ſomebody, that this is a ſtory made up, and a combination formed, in order to ruin this lady: but I will carry the caſe much further by witneſſes, who it cannot be ſaid are influenced witneſſes, but reſpectable tradeſmen, who never knew Mr. or Mrs. Middelton, who will give you proofs, and I will ſay damning proofs, that Roſe continued in every place to which this woman went, and that he continued her vile paramour from that unfortunate period to the preſent hour.

Gentlemen, Mrs. Middelton with her mother went to Little Hampton in the ſummer *, where they ſaw Mr. Dorſet, a banker of this town: and when I mention his name, every body will believe he is a man of much reſpectability and honour. Mr. Dorſet was introduced to this lady and her mother, and was aſſured by the perſon who introduced him, to whom he gave full credit, that the inſinuations and charges made againſt her were falſe and malicious; that ſhe was an innocent and much injured woman. Under this conviction he countenanced her, and introduced Mrs. Dorſet to her, and they were companions and friends. In the enſuing ſummer, Mr. and Mrs. Dorſet went to Loweſtoff in Suffolk, which is a ſea-bathing place, and where Mrs. Middelton deſired lodgings might be taken for her and her mother. They went thither; and you will judge whether any human being can doubt of the fact of this lady's criminality. She went to Loweſtoff, and there comes a man under the name of Richards, and takes a lodging at a public houſe; he dreſſed like a gentleman, and appeared as if living upon what property he had. This Mr. Richards and Mrs. Middelton were frequently found walking by the ſea-ſide arm in arm, and in a ſort of familiar converſation, which if it had been a man and his wife would have been nothing extraordinary, or a man and his ſweetheart; or even had it been a common acquaintance of Mrs. Middelton, and of Mr. and Mrs. Dorſet, it might not have been ſo particularly noticed; though, give me leave to ſay, frequent and ſolitary walks of men with others' wives is not the moſt becoming conduct.

Gentlemen, upon this being obſerved and communicated to Mr. Dorſet, it ſtruck him as being rather a ſingular circumſtance. Upon enquiry being

* This was in the ſummer of 1793.

made

made, this Richards, living at this houſe in ſecret, and finding his way out at firſt as it were like an owl in the dark, though he afterwards ventured out in broad day-light in defiance of all decency, turned out to be the very identical John Roſe, the very man who had defiled his maſter's bed, who had left his ſervice, and found his way to Loweſtoff; and who, I verily believe, is at this moment rioting in the ſpoil of the fortune * which has been taken from Mr. Middelton in conſequence of this adultery.

Gentlemen, there is another fact, which, if any thing can be more hurtful than another, it is what I am about to ſtate. I am afraid, within a period oftime which makes it very ſuſpicious †, Mrs. Middelton has had a child. If there can be one thing which wounds human nature and hurts our parental feelings more than another, it is the infamous conduct of perſons who throw doubts upon the legitimacy of our children. Children are the greateſt bleſſings which Providence has given to man; they are the objects of conſtant affection and pleaſure when you look at them: but if a man be impreſſed with doubt, whether the child he would hug to his boſom as his own, be not more probably the child of ſome adulterer, it would become the object of deteſtation and horror; and whenever that child entered the room, and ran to receive the careſſes of its father, he would ſhrink from him, as reminding him of his diſgrace. Diſgrace did I ſay? Sure none can attach upon the man, when there is no blame upon him; but his own misfortune muſt ſtrike him every time this little cherub happens to come into his preſence, whenever he is ſitting or repoſing. Gentlemen, all theſe circumſtances will and ought to be taken into the conſideration of a jury in eſtimating damages. Conſider only the miſerable and lamentable ſituation to which a huſband is reduced by ſuch conduct as this. I know no misfortune in human life that can ſtrike a man equal to it; and if I can be allowed to make a quotation, I will do it upon this ſubject, becauſe in my opinion, though it is the language of a poet, it is no fiction; it is in a very few lines, and ſums up the total and extent of the miſery and diſtreſs which muſt neceſſarily operate upon a man's mind under theſe circumſtances.

* Mrs. Middelton has had an allowance of 600l. per annum made to her by the Spiritual Court by way of alimony pending the ſuit for divorce in that Court.

† Viz. 4th of January 1794. The examination of the ſervants at Stockeld was on the 4th of April 1793.

The character who ſpeaks it is ſuppoſed to have been in the ſame ſituation in which Mr. Middelton unfortunately ſtands: he ſays *,

Had it pleas'd Heaven
To try me with afflictions; had he rain'd
All kind of ſores, and ſhames, on my bare head;
Steep'd me in poverty to the very lips;
Given to captivity me and my utmoſt hopes;
I ſhould have found in ſome place of my ſoul
A drop of patience; but (alas!) to make me
A fix'd figure for the hand of ſcorn
To point his ſlow unmoving finger at,—
Oh! Oh!
Yet could I bear that too; well, very well;
But there, where I have garner'd up my heart;
Where either I muſt live, or bear no life;
The fountain, from the which my current runs,
Or elſe dries up; to be diſcarded thence!
Or keep it as a ciſtern, for foul toads
To knot and gender in;—turn thy complexion there,
Patience, thou young and roſe-lipp'd cherubim!
Ay, there, look grim as hell!

Gentlemen, upon this part of the caſe I will not ſay another word; for if theſe ſentiments conveyed in that language do not ſtrike you as the language of truth, and do not ſhock your heart, it is impoſſible any feeble terms I can uſe can make an impreſſion upon you. I have only one more obſervation to make, and that is upon the queſtion of damages. I ſtated that John Richards who was at Loweſtoff was John Roſe. I ſhall prove it by the perſons who were preſent when the copy of the writ was ſerved upon him in London, and who ſaw him at Loweſtoff.

This man is a ſervant, it is true; he is not a rich man, that is alſo true enough: but, Gentlemen, you will conſider this—If you are to meaſure in a caſe like the preſent merely upon a pecuniary conſideration, what compenſation can an injured huſband receive? If he were poſſeſſed of all the riches of the Eaſt, or they were all poured into his lap, or ſent to his banker's, it would be no real recompenſe for the total deſtruction of his honour which he has loſt. If poverty be to be pleaded upon ſuch a ſubject, then

* Shakeſpeare's Othello.

whoever is charged with this crime may plead poverty, and the door is open to every miſcreant and every vagabond who ſhall chooſe to violate your happineſs; and when a man brings an action in a court of juſtice for damages, he has nothing to do but to ſay, I plead my poverty. In other ſubjects, where poverty is almoſt an excuſe, the ſtrict letter of the law ſays it is none; and every man who wanting bread takes to the highway is entitled to our pity. Yet the law ſays this: I cannot look to ſubjects in that way; I cannot ſuffer men to violate the property of others without juſtice being done. So I ſay here: The law will not ſuffer the honour and happineſs of the huſband to be violated, becauſe a perſon can ſay, I am poor, and therefore cannot pay any damages.

Gentlemen, there is one other obſervation which I wiſh to make; and give me leave to ſay, I know there are perſons who are here now watching to miſrepreſent, if poſſible, what paſſes. I don't allude to my friend Mr. Allen when I ſay that: he is watching only as he ought to be; but there are others, who are watching to miſrepreſent this caſe. Let us conſider, when a verdict goes into the world, what effect it has. The world, who do not hear the cauſe, do not know the impreſſions which have entered into the minds of the jury; and if they ſee ſmall damages tacked to the bottom of the record, there are thoſe who will ſay, "No jury would have given very ſmall damages unleſs Mr. Middelton had been to blame, and unleſs he had ſhut his eyes againſt the acts of his wife." I beg and entreat you therefore, as men of honour and juſtice, to vindicate the character of the huſband, whoſe character is always implicated in ſome way. I beg you, as men, not to be led away by the falſe ſtory reſpecting this fellow, who is now rioting in luxury, to give ſmall damages, becauſe though he be wicked yet it happens he is poor.

Gentlemen, I muſt really apologize for having taken up ſo much of your time. I told you at the outſet it was a cauſe of importance. It is a cauſe of the utmoſt importance to Mr. Middelton, as his peace and happineſs depend upon it. I have not confined myſelf to one or two ſimple facts for the purpoſe of receiving a verdict; but I have ſtated, and I will prove what I have ſtated to the whole extent of it, That if the defendant could have found the ſmalleſt juſtification, he would have pleaded to this action. If he could have found the ſmalleſt extenuation, he might very eaſily have attended by counſel. A man who has been living without employment, well dreſſed,

well fed, well entertained wherever he has been, ſince April 1793, and during his intercourſe with this lady, who has no inconſiderable fortune now at her command, ſuch a man might have contrived to have got ſome counſel to have attended for him, if he had the ſmalleſt plea to offer. He has none: he can have none: he knows he can have none: and thoſe who have adviſed him to proceed in the way he has done, truſt to chance for a verdict. They ſay, If the jury happen to ſee this in a ſerious light, they know you are a ſervant, and you have therefore more chance to get off.

Gentlemen, one other obſervation give me leave to make, and that is, Being in the ſituation of a ſervant, it is ſingular how he came to have the audacity to addreſs his miſtreſs. It may ſtrike ſomebody to ſay, Why, a ſervant might as well attempt to eat his fingers' ends as to addreſs his miſtreſs in this way. But, Gentlemen, how it originated, or in what manner, none but God and the guilty parties can tell. That is nothing to the huſband; and give me leave to ſay, if in conſequence of this adulterous intercourſe having happened once or twice, a remonſtrance had been made, and the man, being ſtruck with the impropriety, had declined any further intercourſe, that obſervation might have had ſome weight; but he is going on in a conſtant courſe to a degree that affords no excuſe: though I believe, if it could be proved, the lady originally ſolicited him to her bed, which perhaps human nature was not very well able to reſiſt. But the continuation of it marks ſuch a callous and depraved mind, as will not in my opinion admit of the ſmalleſt excuſe. Having ſtated ſo much, I will call my witneſſes, and the whole caſe will be under your conſideration.

HENRY BALDWIN *ſworn.*

Mr. *Shepherd*—*Q.* I believe, Sir, you lived with Mr. Middelton in the capacity of butler or houſe-ſteward?

A. I did, Sir,

Q. At Stockeld Park?

A. Yes, Sir.

Q. When did you go to live there?

A. In the year 1786, I think it was on April the 22d.

Q. Before I aſk you a queſtion about the immediate facts of this caſe, did Mr. and Mrs. Middelton live, till this unfortunate tranſaction happened, in the habits of conjugal affection?

A. Very

A. Very much ſo.

Q. You of courſe being in that ſituation muſt have had an opportunity of ſeeing whether they did or not?

A. I always thought them very happy together before this.

Q. How many children had they when you quitted the family?

A. They had five, I think, Sir; they had ſeven, but two were dead.

Q. When did you quit?

A. In 1793, the beginning. I have been two years away now, Sir.

Q. Do you remember John Roſe living with Mr. Middelton?

A. Yes, very well, Sir, as his groom.

Q. Do you recollect when he came to live there?—what year was it in?

A. I don't recollect.

Q. Mrs. Middelton uſed, I believe, to ride out on horſeback?

A. Yes, Sir.

Q. Whom was ſhe attended by?

A. By John Roſe.

Q. In the year 1792, did you obſerve any thing that ſtruck you as ſingular in the conduct of Mrs. Middelton?

A. Many times, when I was waiting at dinner.

Q. Of what ſort?

A. Of her looking at him when he waited at table. He did not wait at dinner every day. I waited below, and ſhe ſat at the head of the table; and ſhe uſed to look particularly at him, which I thought very odd.

Q. That was in 1792?

A. Yes, Sir.

Q. Did you ever obſerve her go towards the ſtable at any time?

A. Yes, I have ſeen her go to the ſtable frequently.

Q. The groom's buſineſs of courſe was in the ſtable?

A. Yes, of courſe.

Q. Do you recollect about Chriſtmas 1792 your going there, and particularly to the granary?

A. I was obliged to go paſt the ſtable to the granary, becauſe it was above it.

Q. Who had the keys of the granary?

A. I had them.

Q. Did you obſerve any body in the ſtable?

A. I did, Sir,—Mrs. Middelton.

Q. And

Q. And whom elſe?

A. And John Roſe.

Q. Whereabouts in the ſtable were they?

A. Upon a bench on the right hand going in with a green baize over it—Mrs. Middelton was ſitting upon it, and he by her; he roſe up directly and ran to the brown horſe.

Q. Did you obſerve any familiarity?

A. No, I did not.

Q. Was the ſtable door ſhut?

A. No, it was open.

Q. Do you recollect any other time going into the ſtable and ſeeing them there?

A. No, I cannot ſay I do.

Q. I wiſh you would endeavour to recollect.

A. I went into the ſtable afterwards, and Mrs. Middelton was ſtanding there and playing with ſomething behind the horſe.

Q. Did you ever obſerve her in the ſtable at any other time?

A. No, I cannot ſay I did.

Q. Do you remember, ſome time about Auguſt 1792, any thing happening at the bathing well?

A. Yes, Sir.

Q. There is a bathing well in the grounds?

A. Yes, Sir, in the wood.

Q. Did you ſee Mrs. Middelton there?

A. I ſaw her go down to the bathing well.

Q. Did you, in conſequence of that, ſay any thing to any body?

A. I did.

Q. Who was the perſon you ſpoke to?

A. William Hodgſon.

Q. I don't aſk you what you ſaid to him, but did you deſire him to watch?

A. Yes, I told him there was ſomething going on wrong, and he ſaid——

Q. Never mind what he ſaid—Did you, after you had ſo ſpoken to William Hodgſon, ſee any thing more between Mrs. Middelton and John Roſe?

A. No, I did not.

Q. When did you go away?

A. I can-

A. I cannot ſay.

Q. I wiſh you would recollect.

A. I think it was in the beginning of January 1793.

Q. Did you ſee Roſe and William Hodgſon together after you deſired Hodgſon to obſerve?

A. I ſaw them in the ſtable.

Q. How came you to go away?

A. Upon account of this ſad affair.

Q. How came that? was you deſired?

A. No, I was not, Sir; I gave Mr. Middelton warning; I did not chooſe to ſee any more; I had ſeen too much. I did not like to ſtay, and that was my only motive for leaving him.

Q. I believe Mr. Middelton expreſſed himſelf ſatisfied with you?

A. Mr. Middelton gave me an excellent character, and he was a worthy maſter.

Q. Where do you live now?

A. With Lord Willoughby de Broke in Berkley-ſquare.

Croſs Examination by Mr. ALLEN.

Q. You ſaid you left Mr. Middelton's ſervice in January 1793?

A. I think it was.

Q. You told us juſt now, Mr. and Mrs. Middelton lived very happy till this affair happened?

A. Yes; I believe, nobody more ſo.

Q. Did any particular unhappineſs ſubſiſt before you left Stockeld?

A. No, not at that time.

Q. Then why did you think they would not continue to live happy?

A. Becauſe I thought the affair would come out, and they would not live happy afterwards.

Q. You ſay you took particular notice of Mrs. Middelton looking towards Roſe at dinner?

A. Yes, Sir.

Q. Did he always wait at table?

A. No, Sir, only now and then.

Q. What was it that attracted your notice?

A. Her looking at him, and ſtaring him in the face.

Q. His ſituation was then juſt oppoſite her?

A. Yes

A. It was, Sir.

Q. So that ſhe could not have looked at the bottom of the table without ſeeing Roſe?

A. He ſtood behind his maſter's back.

Q. You have told us you went into the ſtable, and that you ſaw Roſe and Mrs. Middelton in the ſtable together?

A. Yes, Sir.

Q. You have fairly ſtated the ſtable door was not ſhut, but open, and that they were ſitting upon a bench?

A. Yes, Sir.

Q. You ſaw nothing further than merely their ſitting then upon the bench?

A. No, only he ran away.

Q. You have told us, Mrs. Middelton ſtaid afterwards?

A. Yes, Sir.

Q. She did not run away as if ſhe had been doing any thing improper?

A. I went into the granary, I only juſt looked and ſaw them.

Q. She did not appear as if ſhe had been ſurpriſed?

A. I cannot tell that, becauſe I turned my back immediately as I turned to the left, and they were on the right.

Q. You did not perceive any particular confuſion in Mrs. Middelton?

A. I could not ſee, becauſe I turned my back directly.

Q. You told us juſt now, that after you had found them in that ſituation you ſaw Mrs. Middelton playing with the horſe?

A. That was afterwards. I went into the ſtable, and he was dreſſing the horſe.

Q. That was on the ſame day?

A. No, Sir, on another day.

Q. You ſaid you never ſaw them there afterwards—you ſaid about Chriſtmas 1792 you went through the ſtable to the granary?

A. Once was in Auguſt.

Q. When was the firſt time?

A. When ſhe was upon the bench.

Q. Did you ſee her more than once in the ſtable?

A. Yes.

Q. Was it on different days?

A. Yes, Sir.

Q. You

Q. You mean to ſay, Mrs. Middelton was merely playing with the horſe ?

A. Yes, Sir.

Q. You probably know a little of the ſituation of Roſe at that time—He was groom—was he not ?

A. Yes, Sir.

Q. Do you know what Mr. Middelton's religion is ?

A. A Roman Catholic.

Q. And Mrs. Middelton too ?

A. Yes, Sir.

Q. You ſay you never ſaw any thing at the bathing-well yourſelf ?

A. No, I did not.

Q. You only deſired Hodgſon to go there ?

A. No, Sir.

Q. You never ſaw Mrs. Middelton but twice in the ſtable ?

A. No, Sir.

Q. Once on the bench, and once when ſtanding playing with the horſe?

A. Yes, Sir.

Mr. *Shepherd*—*Q.* You have ſaid Roſe uſed to ſtand at the bottom of the table—Now I aſk you this queſtion—As a man of diſcernment, were Mrs. Middelton's looks which ſhe directed to Roſe ſuch indifferent looks as ſhe addreſſed to the other ſervants ?

A. They were of a peculiar nature ; at leaſt to me they appeared ſo.

Sheriff—*Q.* You have told the jury you marked their attentions—When you made thoſe remarks was Mr. Middelton at home ?

A. Yes, he was, Sir.

Q. Had you any reaſon to ſuppoſe that Mr. Middelton had obſerved thoſe attentions his wife paid to Roſe ?

A. No, Sir.

Q. You ſay you ſaw Mrs. Middelton with Roſe upon a bench ?

A. Yes, Sir.

Q. It ſtruck you as an extraordinary thing ?

A. Yes, Sir.

Q. Did you mention it to your maſter ?

A. No, Sir.

Mr. *Allen*—*Q.* Was it not poſſible, but almoſt probable, if this particular attention towards John Roſe paſſed, that Mr. Middelton muſt have diſcovered it ?

A. That I cannot tell.

Mr. *Shepherd* (to Mr. *Allen)*—Did you never leer at a lady without any body ſeeing you?

WILLIAM HODGSON *ſworn.*

Mr. *Shepherd*—*Q.* You have been game-keeper to Mr. Middelton?

A. Yes, Sir.

Q. Do you know the bathing-well?

A. Yes, Sir.

Q. Do you recollect, in Auguſt 1792, any body ſaying any thing about the bathing-well?

A. Yes, Sir.

Q. In conſequence of that, what did you do?

A. I went to the ſunk pond where there is a ſentry-box—Nobody was there, and I went to the bathing-well; the door was bolted on the inſide, but not locked.

Q. Is there a room there?

A. Yes, Sir.

Q. A dreſſing-room?

A. Yes, Sir—I ſtood and liſtened at the door, and I heard a kind of whiſpering—and I heard the chair ſometimes move in the place—and I put the key into the door, as I had a key, and I locked it and unlocked it three or four times—and I ſaid, What the devil is the matter with the door? I cannot open it now—I opened it very well in the morning—I ſtood a little bit, and Jack Roſe came and peeped through the key-hole—He ſaw it was me, and he called out, Damn you, go away.

Q. Did you ſee him?

A. Yes, Sir.

Q. Did you know him before?

A. Yes, Sir, very well.

Q. Did you know his voice?

A. Yes, Sir.

Q. What did he ſay to you?

A. Damn you, go away—I ſtood conſidering what was to be done—I thought to have burſt the door open, but I conſidered it was beſt not—I went up into the paſture, about a hundred yards, with high graſs in it, and I laid me down along whilſt he came out—He came out and looked both ways, and went in again, and ſtaid about five minutes, when he came out, and looked about again; then he went in, and him and her came out together.

Q. Who?

Q. Who?

A. Mrs. Middelton and John Roſe; they both went out together.

Q. When ſhe came out what did ſhe do?

A. She turned to the left hand to go home, and ſhe ſet off a-running as faſt as ſhe could.

Q. Where did ſhe go to?

A. To the houſe.

Q. Did ſhe run all the way up to the houſe?

A. No, Sir—She ran till ſhe came within ſight of the houſe, about a hundred and fifty yards—I intended to have met her going out of the paſture, but ſhe got out of the gate before I got to it.

Q. Where was Mr. Middelton?

A. He was at Middelton Lodge, another of his houſes, and he did not come home till night.

Sheriff—*Q.* Had he been abſent for any time?

A. He went on the Sunday.

Q. When was this?

A. This was on a Wedneſday.

Croſs examined by Mr. ALLEN.

Mr. *Allen*—*Q.* You have told us you was the ſnake in the graſs juſt now?

A. I was laying in the graſs.

Q. Peeping?

A. Yes, Sir.

Q. People ſometimes pay for peeping, and perhaps we ſhall make you pay for peeping by and by—Pray what was this field where you lay ſo ſnug?

A. A paſture.

Q. What time in the year was it?

A. In Auguſt.

Q. You have told us the graſs was very high then?

A. Yes, Sir.

Q. How came that to be in Auguſt?

A. It was very high—it was a new laid field, and had a deal of rye graſs.

Q. Was there any cattle in it?

A. Yes, Sir, there was fifteen ſheep at the ſame time.

Q. Pray how far from the bathing-well did you lay yourſelf down?

A. Betwixt fourſcore and a hundred yards.

Q. Was it upon an aſcent or deſcent?

A. It is rather up hill from the bathing-well.

Q. Will you ſwear it was not behind the hill?

A. I cannot juſtly ſay whether I was behind the hill or not—it is impoſſible I ſhould know.

Q. Was you, upon your oath, juſt upon the top of the hill, or juſt behind the hill?

A. I cannot juſtly ſay—I was where I could ſee the bathing-well door.

Q. If you had been behind the hill, could you have ſeen it?

A. Yes—by looking up—it is a very little hill.

Sheriff—*Q.* Did you ſee them come out?

A. Yes, Sir.

Mr. *Allen*—*Q.* Do you mean to ſay, if you laid behind the hill, you could ſee them?

A. Yes, Sir—it is a very little hill.

Q. Do you mean to ſwear you could have ſeen him behind the hill? If you laid behind the hill, could you have ſeen Mrs. Middelton and John Roſe come out of the bathing-well?

A. Yes—and any body elſe might have ſeen them—I laid myſelf down upon my elbows—it is all upon a level—when you get upon the hill it is upon a level.

Q. When you got upon the hill, you lay behind the hill?

A. No, Sir.

Q. Perhaps you know, ſome time after this, this place was looked at?

A. Yes, Sir.

Q. And you ſhewed the place where you lay?

A. Yes, Sir.

Q. You lay very ſnug there?

A. I laid ſo that I could ſee the door as I laid—I did not lay flat upon my face, but in a poſition that I could ſee the door.

Q. You could ſee the door?

A. Yes, Sir.

Q. Then you acknowledge you laid behind the hill?—You ſaid juſt now, in this paſture there was high graſs?

A. Yes, Sir, very high.

Q. If you lay behind the hill, it could not be very eaſy to ſee over it and the graſs too?

Jury—

Jury—He ſtates the hill to be an aſcent, and at the top is a flat, therefore it is not inconſiſtent—there is no behind in the caſe.

Mr. *Allen*—*Q.* Do you live with Mr. Middelton now?

A. No, Sir.

Q. When did you leave him?

A. When he left Stockeld Park.

Q. He left Stockeld Park upon this diſcovery?

A. Yes, Sir.

Q. Did you ſay any thing to your maſter?

A. No, Sir.

Q. Did you ſay any thing to Baldwin?

A. Yes, Sir—I did—Well, ſays he, have you caught them? and I ſaid No—I thought, if ſhe would never do ſo again, I would not tell him—I told him I had not—I thought, if I could get to ſpeak to her, I very likely could perſuade her to part with John Roſe. The next day, about eleven o'clock, Mr. Middelton, Mr. Maxwell, and Mrs. Middelton were at the hall-door: they ſent for me to charge the air-gun, as they were going a-ſhooting, and could not charge it—Mr. Middelton was gone in for an iron pin that belonged to the air-gun—I thought if I could perſuade her to part with John Roſe, I would go no farther—As ſoon as my maſter was gone into the houſe, and as ſoon as he had turned his back, ſhe called me after her—we walked into the ſhrubbery—ſhe ſays, Well, Hodgſon, I muſt own you caught John and me in a very indecent place, but we were doing nothing that was bad—I told her if ſhe would do ſo no more, I would ſay nothing about it—Roſe told me what he did at her, and he ſhewed me the very chair.

Mr. *Shepherd*—*Q.* Did ſhe give you any thing?

A. No, Sir.

Q. Did Roſe give you any thing?

A. No, Sir.

Mr. *Allen*—*Q.* Have you always told the ſame ſtory?

A. Yes, Sir.

Q. Did ſhe ever give you any thing?

A. No, Sir.

Q. Did Roſe?

A. Yes, Sir, he gave me a guinea once—it was one night when he came to my houſe.

Q. What did he ſay he gave it you for?

A. He

A. He ſaid, for to keep the ſecret; and he ſaid, I nor my family ſhould never want a friend if I kept it.

Q. Then, when you told Baldwin that you ſaw nothing, you told a falſehood?

A. Yes, Sir.

ROBERT MALTUS *ſworn.*

Mr. *Shepherd.*—*Q.* Did you live with Mr. Middelton ſome time in 1784 or 1785?

A. Yes, Sir—I lived there as under butler.

Q. Now, Sir, do you recollect when John Roſe came to live with Mr. Middelton?

A. Roſe came to Mr. Middelton, to the beſt of my remembrance, ſome time in July, in the year 1791—I think ſo—it might be about the middle.

Q. Uſed Mrs. Middelton to ride out on horſeback?

A. Yes, Sir.

Q. Frequently?

A. Yes, Sir.

Q. Did Roſe attend her?

A. Yes, Sir.

Q. Did you ever obſerve Mrs. Middelton and John Roſe riding together in any manner that ſtruck you?

A. Yes, Sir.

Q. In what way?

A. Of a lady riding out, and the groom riding beſide her. I have ſeen them at different times riding as near as two horſes could go together, ſide by ſide.

Q. Now, Sir, did you ever obſerve ſhe went frequently to the ſtable?

A. Yes, Sir, I have.

Q. How often? Did it appear to be oftener than a lady would go to the ſtable except on particular occaſions?

A. I have ſeen her there before breakfaſt and after breakfaſt, and I have known her there till the firſt bell has rung for the dinner—many times when the company has gone out a riding, and after that time, and ſhe has not been dreſſed in time for dinner, and has been ſcolded by Mr. Middelton for not being dreſſed and ready for dinner. He has ſaid, My dear, you are not ready, or ſomething of that kind.....he has ſaid ſo many times.

Q. Do you ſay this has ariſen from her having been ſo long in the ſtable?

A. Of my own knowledge I know that to be a fact many times.

Q. Do

Q. Do you remember, in the month of November 1792, the particular circumſtance of Mrs. Middelton going to the ſtable?

A. Yes, Sir—it was the latter end of the year 1792, whether in October or November I cannot tell.

Q. Did you, in conſequence of that, go to the ſtable under any pretence?

A. Yes, Sir—I ſaw her go there myſelf—the firſt time I ſaw her was the 2d of September.

Q. I want to know the particular time—I mean, when you took your maſter's ſhoes to oil.

A. I ſaw her go to the ſtable—I knew her to be there a long time myſelf, and I made an excuſe and went into the ſtable—I thought of it for two or three months together—ſo I thought I would take my maſter's hunting ſhoes, and I went into the ſtable and oiled them, when I ſaw Mrs. Middleton and John Roſe.

Q. What ſituation were ſhe and Roſe in?

A. Her and Roſe at that time were ſtanding on the right hand ſide going into the door, cloſe together; and Roſe, I can ſwear, had one hand upon her hip: he immediately flew from the middle of the ſtable into one of the ſtalls to one of the horſes.

Q. Upon your going in was there any appearance of confuſion?

A. A great deal on the part of Mrs. Middelton.

Q. Do you recollect any circumſtance of Mrs. Middelton going into the ſhrubbery after it was dark?

A. I have known her do that frequently.

Q. Do you know of any converſation between her and Roſe?

A. I have ſeen them there.

Q. When you ſay you have ſeen them, do you mean they only happened to be there, or that you ſaw them together?

A. I have ſeen them together in converſation.

Q. Was this in the dark?

A. Yes, Sir.

Q. How many minutes have they continued together?

A. I have ſeen them together ten or twenty minutes.

Q. Had he any regular buſineſs in the ſhrubbery?

A. None at all.

Q. Do you remember any part in the grounds called the Grove?

A. Yes,

A. Yes, Sir.

Q. Do you remember ſeeing Mrs. Middelton and John Roſe in the Grove?

A. Yes, Sir.

Q. Tell us exactly what you ſaw paſs.

A. I ſaw them (I cannot tell the day)—but one night in particular I put myſelf under ſome buſhes in the ſhrubbery, and Roſe and Mrs. Middelton were in converſation; and nearly oppoſite to me they ſtopped, and I firmly believe he kiſſed her—but I cannot ſwear to it.

Q. Were they ſo cloſe together as to kiſs each other?

A. It appeared to me ſo.

Q. Did you ever obſerve, after Mrs. Middelton came out of the ſhrubbery, any thing the matter with her gown?

A. I have obſerved it uſed to be very often remarkably dirty, and her ſaſh that ſhe wore was dirtied; which ſatisfied me ſhe muſt have been pulled about by a man—at leaſt as it appeared to me.

Q. Then you have obſerved thoſe marks as if ſhe had been pulled about by ſomebody?—Were her clothes diſcoloured at all?

A. Yes, Sir.

Q. What colour?

A. They were ſoiled.

Q. I don't aſk you what paſſed between you and Mrs. Middelton—but do you remember ever being preſent at any converſation between Mrs. Middelton and Roſe, in which they talked about his going away.

A. Yes, Sir.

Q. Tell us when that was, and where this converſation took place?

A. The converſation took place between Mrs. Middelton and Roſe, in Mr. Middelton's dreſſing-room.

Q. Were you preſent?

A. I was—I fetched John Roſe by Mrs. Middelton's deſire.

Q. I believe you and Mrs. Middelton had had ſome converſation about thoſe things?

A. We had.

Q. In conſequence of that you fetched John Roſe to her?

A. I did—I opened my maſter's dreſſing-room door, and went in firſt. She was ſitting in this manner—My dear John, will you leave me? ſays ſhe, will you leave me? I muſt, Ma'am, ſays he, for it will be the ruin both of you and me.

me. Do you inſiſt upon his going away? ſaid ſhe to me, do you inſiſt upon John's going away? Ma'am, I do: if he don't, I will tell my maſter.

Q. You remonſtrated with her?

A. Yes, Sir: we had a long converſation, and it was agreed he was to ſtay a month, and then was to go.

Q. Did he ſtay?

A. He did not go away at that time, but ſome time after.

Q. How long after did he go away from Stockeld?

A. The latter end of November, or beginning of December; I think it was the beginning of December, but I cannot exactly ſay.

Q. Do you remember the circumſtance of your maſter receiving him back again?

A. That I know nothing about: I left the family in the month of December.

Q. What was your reaſon?

A. My maſter diſcharged me at a moment's notice *.

Q. Do you know whether that was after your maſter ſaw Mr. Maxwell?

A. No; it was before he had ſeen Mr. Maxwell.

Q. You don't know how he came to turn you away?

A. I will tell you what he ſaid.

Q. Was Roſe preſent at that time?

A. He was not.

Q. That was after you had heard this converſation between your miſtreſs and Roſe?

A. Yes, Sir.

Croſs examined by Mr. ALLEN.

Q. Your miſtreſs, I believe, had a favourite horſe?

A. Yes, Sir.

Q. You recollect that horſe?

A. Yes, Sir.

Q. Probably that might be the cauſe of her going into the ſtable now and then?

A. That might be the cauſe, Sir; but ſhe had that favourite horſe before ſhe had John Roſe.

Q. However, ſhe had this horſe?

* The reaſon why he was diſcharged was for having communicated to Mr. Maxwell his obſervations of his miſtreſs's conduct towards John Roſe.

A. Yes,

A. Yes, Sir.

Q. This horſe was a little ſkittiſh?

A. I don't know, Sir.

Q. Don't you know it of your own knowledge?

A. I believe there was never a quieter horſe in the world.

Q. Don't you know ſhe had a fall from him?

A. I don't know that ſhe fell, but I heard ſuch a report.

Q. Don't you know, Sir, that Mr. Middelton deſired her, when he was not with her, to ride but at a ſmall diſtance from the groom, leſt the horſe ſhould run away with her?

A. I don't know that.

Q. You know the horſe did run away with her?

A. I have heard it.

Mr. *Shepherd.*—*Q.* Was any body but the groom with her when this horſe was ſaid to run away with her?

A. No, Sir; but that was not in John Roſe's ſervice.

Q. You have ſaid you ſaw them ride ſide by ſide, did they uſe to ſet out ſo?

A. No, Sir.

Q. Did they come back to the door ſo?

A. No, Sir, not within ſight of the houſe.

Sheriff.—*Q.* Did you give your maſter warning?

A. No, Sir, I did not; he diſcharged me.

Q. Did you communicate thoſe familiarities to your maſter?

A. No, Sir.

Q. Did he give you any reaſon why he diſmiſſed you?

A. No—he rung his bell, and I went up to him: Robert, ſays he—

Q. Did he ſay any thing about Roſe?

A. No, Sir, he never mentioned his name.

Q. Then we don't want to hear any thing he ſaid.

HANNAH BURNS *ſworn.*

Mr. *Marryatt.*—*Q.* I believe, Ma'am, your name was Cammage?

A. Yes, Sir.

Q. You are married ſince?

A. Yes, Sir.

Q. When did you firſt go to live in Mr. Middelton's family?

A. In

A. In December 1786.

Q. When did you quit?

A. Two years ago this Chriſtmas, Sir.

Q. Was it before Mr. and Mrs. Middelton were parted, or after?

A. A little while before.

Q. I believe you lived with Mrs. Middelton as lady's maid?

A. Yes, Sir, ſix years.

Q. Did Mr. and Mrs. Middelton till this unfortunate connection appear to live happy?

A. Nobody more ſo.

Q. Of courſe you had an opportunity of ſeeing whether they did or not?

A. Yes, Sir.

Q. Was Mr. Middelton a fond and affectionate huſband?

A. Nobody more ſo.

Q. Had you any opportunity of obſerving Mrs. Middelton going into the ſtable?

A. I ſhould never have had any ſuſpicion, only I was told.

Q. Do you remember in November 1792 (we will not go over all the inſtances) one evening going to look for Mrs. Middelton any where?

A. Yes, Sir.

Q. Was Mr. Middelton at home?

A. No, he was not; he was at Middelton Lodge.

Q. How came you to go to look for Mrs. Middelton?

A. By Mrs. Mead's * and Robert Maltus's deſire.

Q. Where did you go to look for them?

A. I went all over the ſhrubbery, and I went acroſs the end of the grove. The wind was pretty high, and they came out of the ſhrubbery: he had his arms about her waiſt. I laid hold of his coat flap: he ran away and dragged me for ten yards; but I held faſt, and then beat him as much as lay in my power.

Q. Upon your catching hold of the ſkirt of his coat, what did Mrs. Middelton ſay?

A. She ſaid, My dear Cammage, for Heaven's ſake! you will make ſuch a noiſe you will undo me for ever. I told her Mrs. Mead was at the hall-door watching for her.

* She was maid to Mrs. Grace, then on a viſit at Stockeld.

Q. Who

Q. Who was Mrs. Mead ?

A. She was Mrs. Grace's nurſe, a very old woman, that had the ſame regard for Mrs. Middelton as if ſhe was her own child.

Q. Did any thing more paſs ?

A. Yes, Sir, a great deal. I loſt my ſhoes by being dragged about ſo ; they kept me there near an hour, one hold of one hand, the other hold of the other. I told Roſe, if he did not quit the family, I would go to Mr. Middelton immediately. She ſaid, You ſhan't, John. He went away : but ſhe ſaid, Come here, John, I want to ſpeak to you ; and with a great deal of entreaty he returned. He ſaid he would go. I was in a violent paſſion, and ſhe was afraid I ſhould go and tell her mother, which I ſhould have done if they had not held me ; they kept me, I ſuppoſe, three quarters of an hour in the rain.

Q. In what way did they go away together ?

A. He left Mrs. Middelton and me.

Q. Did you ever make any obſervation upon the ſtate of Mrs. Middelton's gown or dreſs ?

A. This was the firſt time I ever watched her, and the whole of the train of her gown was draggled.

Q. Did it rain ?

A. It was a kind of thick hazy rain. She ſaid, as long as ſhe had a ſhilling he ſhould have eleven-pence of it, and ſhe ſhould never be happy till ſhe made him independent. I was once outſide of the door, when ſhe came out and bid me begone.

Q. When was that ?

A. When John Roſe was to go away.

Q. Where was he ?

A. He was in my maſter's dreſſing-room.

Q. That was when Maltus was there ?

A. Yes, Sir—I heard her ſay, My dear John, don't leave me. I was very much agitated. I ſaid I would fetch my maſter. She then diſcharged me. I went up ſtairs and packed up my clothes ; but ſhe would not let me go that time ; ſhe ſaid, ſhe would not be left without a maid.

Q. From all you obſerved between Roſe and Mrs. Middelton, had you a doubt of there being an improper criminality between them ?

Sheriff. I cannot take her doubts.

Witneſs. I fetched her out of the ſtables ſeveral times ; I fetched her out of the ſtable one time, and he ſaid he would ſtick the hay-fork in me.

Croſs

Croſs examined.

Mr. *Allen.*—Q. You ſay you was in a violent paſſion?

A. Yes, Sir.

Q. Probably, being irritated, you cannot recollect the exact words?

A. Yes, Sir, conſidering the length of time ſince.

Q. It was a wet night?

A. Yes, Sir, it was, and windy too.

Q. You never before obſerved Mrs. Middelton's gowns to be in this ſituation?

A. Yes, they was one night, and ſhe had wet ſhoes and ſtockings.

Q. It was a wet night?

A. Yes, Sir.

Q. Did it rain hard that night?

A. Not very hard.

Q. But it did rain?

A. Yes, Sir.

Jury.—Q. How far off the houſe were they when you ſaw them?

A. It was at the bottom of the ſhrubbery.

Q. How far?

A. Perhaps three times the length of this room.

WILLIAM DAVIS *ſworn.*

Mr. *Marryatt.*—Q. I believe you lived as butler with Mr. Middelton?

A. Yes, Sir.

Q. When did you go into that ſituation?

A. The 9th of February 1792.

Q. Was that upon Mr. Baldwin's leaving it?

A. Yes, Sir; I went upon the Saturday the 9th of February, and he went on the Monday following, which was the 11th.

Q. Then you ſucceeded Baldwin?

A. Yes, Sir.

Q. Did you obſerve any thing reſpecting the ſtables, or reſpecting Mrs. Middelton going to the ſtable?

A. It was my buſineſs to go to the granary, having the keys where the corn was. As it was my buſineſs to give out the grain, and the bread flower, I had the key of it; nobody had it but myſelf; and going to the ſtable I met Mr. Middelton in the field, and he aſked me where I was going. I told him I was going

going to the granary. In going into the ſtable, Mrs. Middelton and John Roſe was at the end of the ſtable behind one of the horſes.

Q. What time was this?

A. In the latter end of February.

Q. What time of the day?

A. It was ſome time, I think, about two or three o'clock.

Q. You ſaw them behind one of the horſes in the ſtable?

A. Yes, Sir, at the top of the ſtable. When I went in he was in deep converſation with her; they ſtood cloſe together, and ſhe ſaid, My dear! As ſhe turned round, Roſe went to work; and ſhe ſaid, Oh, Mr. Middelton is coming! He followed me to the ſtable, and ſhe ſeemed very much confuſed. I went up ſtairs, and they followed me both of them; and when I had done my buſineſs I went down, and left them together.

Q. At any other time did you into the ſtable and make any particular obſervation?

A. Yes, Sir, two other times. To the beſt of my recollection, it was not long after, as I was going through the ſtable to the granary, I obſerved them in converſation again, and as ſoon as I came in they ſeemed much confuſed. I never ſaw them doing any more than being in cloſe converſation, and ſpeaking in a ſoft, low manner, in a ſort of whiſper, and being much confuſed when I went in.

Q. Did you ever make any obſervation upon any part of Mrs. Middelton's dreſs?

A. Yes, Sir.

Q. What was it?

A. That her gowns were ſoiled from ſomething—an arm or ſomething or other round the waiſt.

Q. Is there in the manſion-houſe a gallery or tribune?

A. Yes, Sir, it is a gallery; that is, a kind of gallery for the chapel; it has a communication with the chapel.

Q. Where does the door of that open to?

A. Into the ſtair-caſe hall.

Q. That is the beſt ſtair-caſe?

A. Yes, Sir, it is the principal ſtair-caſe.

Q. Does that ſtair-caſe lead to the principal bed-chambers in the houſe?

A. Yes, Sir, it does.

Q. And among others to Mrs. Middelton's?

A. Yes,

A. Yes, Sir; the tribune door is nearly oppoſite to Mrs. Middelton's bed-room, acroſs the angle of the hall; Mrs. Middelton's dreſſing-room is in one corner of the gallery, and Mrs. Middelton's bed-room is the next to it.

Q. Did you make any obſervation upon Eaſter-morning particularly?

A. Yes, Sir, I did.

Q. Was that in the year you came?

A. Yes, Sir.

Q. Where was Mr. Middelton?

A. In London.

Q. What was the firſt remark that occurred to you upon Eaſter-eve reſpecting this tribune?

A. It being part of my buſineſs to look to the faſtenings of the doors and windows, as Mr. Middelton referred it to my particular attention to ſee every thing was ſafe, and going my round as I generally did in the evening between nine and ten o'clock, I went into the tribune, and I found the window was open, and the ſaſh flung up as high as it could go; the lower ſaſh was thrown up as high as it could go, room enough to admit a man in.

Q. It being your duty to ſee that all was ſafe, you was going to look if the windows were ſhut?

A. It was the houſe-maid's buſineſs; but yet notwithſtanding that I made it my buſineſs to ſee that ſhe faſtened the windows.

Q. Finding this window up, what did you do?

A. I ſhut it down, and let the curtain down, and ſhut the ſhutters and barred them; and ſome time in the courſe of that night, to the beſt of my recollection, I aſked the houſe-maid if ſhe had ſhut that window, and ſhe told me ſhe had. Between eleven and twelve o'clock, going into that place again, I found the window again open, notwithſtanding I had ſhut it and let the curtain down, and the ſaſh was thrown up as before.

Q. Will you tell us what obſervation occurred to you, and what you determined upon doing?

A. I think it was in conſequence of that I informed M'Anulty, who was under butler, that I had a ſuſpicion that Roſe was ſent out of the family, but with no other intent than to deceive thoſe who were watching his conduct. I told him I was confident there was ſomething which was to take place, and which I was determined to ſee the event of. I told him, if it was neceſſary, as I intended to keep on the watch, to call him up, I ſhould expect he would get up; and he promiſed me he would.

Q. Where

Q. Where was Roſe underſtood to be at that time?

A. At Northallerton.

Q. Where did Roſe ſay he was going?

A. I did not hear him ſay; but he went on Thurſday to Northallerton, or ſomewhere. Mrs. Middelton ſaid on the Friday to Miſs Haggerſton, who was on a viſit ——

Q. Never mind what ſhe ſaid. He went ſomewhere, and was not returned?

A. No, Sir.

Q. He was in the ſervice?

A. Yes, Sir.

Q. Now, Sir, what was Mrs. Middelton's practice about going to bed?

A. Mrs. Middelton's practice was to go to bed about eleven o'clock, or a little after.

Q. Did ſhe go to bed the ſame time as her company?

A. Generally as ſoon as the other company went.

Q. Did ſhe do ſo on this evening?

A. No, Sir, ſhe did not.

Q. How late did Mrs. Middelton ſet up this night?

A. Till near twelve o'clock.

Q. Was her friend gone to reſt?

A. Miſs Haggerſton had retired ſome time before, and ſhe ſeemed to wiſh Mrs. Middelton would go to bed with her; but ſhe went and opened the drawers and looked at ſome things, and ſeemed not to wiſh to go.

Q. Did any thing occur a little after twelve in the courſe of that morning?

A. A little after twelve her maid came to the ſtore-room, and there ſhe continued wiſhing me to go to bed.

Q. Did you watch?

A. Yes, Sir.

Q. Where did you put yourſelf?

A. I ſtood at the top of the principal ſtair-caſe, near the door-way of the breakfaſt-room, ſometimes in it and ſometimes walking about the hall, liſtening to noiſes that were about.

Q. Was that a ſituation where you could ſee if any body came in and out of Mrs. Middelton's bed-chamber?

A. Yes, Sir; I could ſee any perſon that came through the tribune, and to what part of the houſe they went.

Q. Will you tell us what you heard and ſaw?

A. I heard a knocking like a ſignal; after the knocking had continued for ſome time the window was thrown up, and I ſaw a man come acroſs the tribune: it was John Roſe—I did not know him to be John Roſe then becauſe it was too dark.

Q. Which way did he get into the tribune?

A. He came into the window.

Q. Did you ſee him?

A. I did not, it was too dark.

Q. Was there any other way he could come in?

A. No, Sir, there was not.

Q. How ſoon afterwards did you know who it was?

A. I was convinced in my mind it was John Roſe, but I did not know it till he came out of her room in the morning.

Q. Where did he go to?

A. He paſſed me near enough for me to put my hand on his ſhoulder; he went up the back ſtairs, and went and tapped at Mrs. Middelton's bed-room door; I ſaw him go into the outer door-way; I heard him tap three times at the inner door, and heard a perſon apparently lump out of bed, and aſk, Who is there? John? Yes, ma'am—and then the door was opened.

Q. I need hardly aſk whether the outward door leads any where but to the inner door.

A. Certainly not.

Q. You ſaw him?

A. Yes.

Q. Is there room enough for a perſon to ſtand between the two doors?

A. There is room for three or four. She ſaid, John, is it you? and to which he ſaid, Yes, ma'am.

Q. Who was it that ſpoke firſt?

A. It appeared to be the voice of Mrs. Middelton that aſked, *Who's there?*

Q. Whoſe voice was it that gave the anſwer, *Yes, ma'am?*

A. John Roſe.

Q. Did that perſon go in after that?

A. Yes, Sir; with that the door was unbolted or unlocked, and the door was opened, and while he was in the door-way I drew myſelf further into the hall, where I could have a better view; and from the light that was in the room I could juſt ſee his head advance, and the door was ſhut.

Q. Was

Q. Was he admitted into her room?

A. Yes, he was, becauſe after waiting ten minutes I went into the door-way.

Q. You found nobody there?

A. No, Sir: I went with the intention to liſten, and I heard people ſtirring about.

Jury.—*Q.* Upon your oath you ſay he went in?

A. Yes, Sir, he did.

Mr. *Marryatt.*—*Q.* Did you hear the door open?

A. Yes, Sir, and heard it faſtened afterwards; he continued in the room about three hours and a half: it was about two o'clock when he went in, and he continued there till about half paſt five.

Q. How ſoon after that you heard the door open did you give the information to M'Anulty?

A. I went out of the door-way, and I came down near the breakfaſt-room; I was for a quarter of an hour before I told him; he was abed and aſleep; I waked him; I told him I ſaw a man go into Mrs. Middelton's bed-room, and I was convinced it was John Roſe; I deſired he would get up. I had a little dark lanthorn, and I wanted to find whether he had left his boots any where; when I called M'Anulty, I went back without any light at firſt, and I could not find any; I went down ſtairs again, and M'Anulty was getting up; I went and ſearched whether there was any boots or ſhoes, but found none; then I left M'Anulty to watch, and deſired him to ſtay till I had made good all the faſtenings of the houſe below, for I was determined he ſhould not get out even if he had attempted.

Q. When did you next ſee him?

A. When he came out in the morning, about half-paſt five.

Q. Where was you then?

A. Both M'Anulty and me were then ſtanding at the breakfaſt-room door, in the door-way when I heard the door unbolt.

Q. Did you ſee Roſe that morning?

A. Yes, Sir.

Q. You know him?

A. Yes, Sir.

Q. Did you ſee him come out of the door?

A. I ſaw him come out of the door-way.

Jury.—*Q.* And you ſwear it was this John Roſe?

A. Yes,

A. Yes, Sir, becauſe I ſeized him by the arm and charged him with the fact as he came into the tribune ; I held him with my left hand ; I had a ſtick in my right hand ; I ſaid, Don't be afraid, John, I will do you no bodily hurt unleſs you attempt ſome to me ; I ſaid, You are a pretty fellow to be all night in your miſtreſs's bed-room in the abſence of your maſter ; what do you ſuppoſe will be the conſequence ? I talked to him for ſome minutes before he ſaid any thing—at laſt he ſaid, there was no harm. No harm ! ſays I, do you ſuppoſe your maſter will think there is no harm ?

Q. How long was he in your miſtreſs's bed-room ?

A. About three hours and a half. He acknowledged he was there, and begged I would not inform his maſter. Then, ſaid I, I ſhould be as great a villain as yourſelf.

Q. Did he come out of the ſame door that he went in ?

A. Yes, Sir.

Mr. *Shepherd.*—Had John Roſe been turned away before that ?

A. Yes, Sir.

Sheriff.—Did you ſay any thing to your maſter ?

A. Not till the Thurſday following. Mr. Middelton returned from London on Tueſday evening : I underſtood he had been making ſome enquiries as to what they could find reſpecting Mrs. Middelton's conduct.

Q. What did he ſay ?

A. I informed him I underſtood he had been making ſome enquiries.

Q. No matter for that. But at length you told him ?

A. Yes, Sir, I did ; I told him the ſubſtance of what I have told you.

Q. What did he ſay ?

A. He ſeemed very much ſtruck and hurt ; it ſeemed to me as though it ſtruck him as if he was convinced before it was not ſo ; and then he deſired me to be ſilent upon the ſubject, and ſay nothing about it. After I began to tell him, he bolted the door ; and after I had told him the ſubſtance, he deſired I would be ſilent on the buſineſs, and ſay nothing to any body. I had before bound M'Anulty to ſilence.

Q. Was this the day he returned from London ?

A. No ; he returned on Tueſday, and this was Thurſday the 4th of March.

Q. What became of Roſe after that ?

A. Mr. Middelton went to York that morning ; he took Miſs Haggerſton

in the carriage, and he returned with Mr. Townend an attorney, and Mr. Carr a gentleman; he returned with thoſe gentlemen, and we were called up before Mrs. Middelton, and aſked what we knew.

Q. Roſe was not preſent?

A. No, Sir.

Q. What did he ſay to Roſe?

A. I never heard him have any converſation with Roſe.

Q. Did Roſe continue in the ſervice?

A. He was diſcharged that night.

Q. The ſame evening?

A. Yes, Sir, to the beſt of my recollection.

Q. I believe Mrs. Middelton was ſent off the next morning?

A. She was. Mr. Middelton, before Mr. Townend left the houſe, begged that he would inform her what the reſolution was.

Q. And ſhe retired with ſome of her ſervants, I believe?

A. Yes, Sir, ſhe left the houſe the next morning.

Sheriff.—*Q.* Your maſter had diſcharged Roſe, but ſtill retaining a good opinion of him took him back?

A. He was diſcharged by Mr. Middelton's brother; I made a miſtake; I think I ſaid the 4th of March, it was the 4th of April; he came the day Roſe was diſcharged.

DANIEL M'ANULTY *ſworn.*

Mr. *Marryatt.*—*Q.* I believe you was under butler in Mr. Middelton's family at Stockeld Park?

A. I was, Sir.

Q. Will you tell us, Sir, what obſervation you made particularly upon Eaſter-eve?

A. Davis called me up on Eaſter-eve according to promiſe, and at his requeſt I got out of bed; I went up ſtairs along with him, and we had not been there long when Mr. Davis left me to faſten the doors below. I propoſed going up ſtairs to ſee or hear what was going forward in Mrs. Middelton's room, and whether he was in it; in my way there was a baſon left upon the carpet. I heard nothing, or ſaw no perſon till the morning between five and ſix o'clock; I was ſtanding then in the door-way, or rather outſide of the door-way of the breakfaſt-room; Mr. Davis pulled me forward, and I ſaw John Roſe

Roſe come out of the door-way of Mrs. Middelton's room between five and ſix o'clock in the morning.

Q. You was not preſent when he went in ?

A. I was not.

Q. How long had you been in the paſſage ſo as to be ſure he was in ? and how long had you been upon the watch ?

A. From about half paſt two till about half paſt five.

Q. That was Eaſter-eve ?

A. Yes, Sir.

Croſs Examination.

Mr. *Allen.*—*Q.* You ſay you ſaw Roſe come out of the door-way—you did not ſee him come out of the door of Mrs. Middelton's bed-room ?

A. I heard the door open, and the door-way led to no other room.

Q. Did you know Roſe ?

A. The day before I had not ſeen him.

Q. Did you know his perſon ?

A. Yes, Sir.

Q. Did you ſee him the next morning ?

A. Yes, I did.

Mr. *Marryatt.*—*Q.* He had not been in the houſe for ſome days ?

A. Not to my knowledge ; I had not ſeen him.

MARGARET BURNETT *ſworn.*

Mr. *Marryatt.*—*Q.* I believe you was houſe-maid in Mr. Middelton's family ?

A. Yes, Sir.

Q. Was it your buſineſs to make the beds ?

A. Yes, Sir.

Q. Do you remember making the bed on which Mrs. Middelton ſlept on the morning after Eaſter-eve ?

A. Yes, Sir, very well.

Q. Tell us what you obſerved on making the bed.

A. I found it different from what I had ſeen before, the clothes were much tumbled.

Q. Did it appear as if two perſons had ſlept in it ?

A. Yes, Sir, it appeared to me ſo.

Q. You

Q. You make beds where two perſons ſleep, and one perſon?

A. Yes, Sir.

Jury.—*Q.* Had you reaſon to apprehend any female friend or ſervant had been in the bed?

A. No, Sir; I had very great ſuſpicion ſomebody had been there, from the window being open.

Q. Had you faſtened down the window the evening before?

A. Yes, Sir, about ten minutes before nine.

Q. There was a lady upon a viſit?

A. Yes, Sir.

Q. Did ſhe ſleep with your miſtreſs?

A. No, Sir; I made her bed in another bed-room.

Croſs Examination.

Mr. *Allen.*—*Q.* Was there any body elſe in the room when you made the bed?

A. Yes; there was another young woman, and we talked about it, and ſaid we would not mention it to any body.

Q. You are ſure there was nobody elſe in the room?

A. There might be ſomebody come in, but I don't recollect.

Q. Part of the time perhaps there might?

A. Yes, there might.

Q. Will you ſwear there was not a third perſon?

A. I will not ſwear that, becauſe I cannot recollect.

Q. Don't you know that frequently your miſtreſs's children went into her room in the morning?

A. Yes; I believe they uſed to go ſometimes into her room before ſhe went down to breakfaſt.

Q. Do you know whether any of the children were in the room that morning?

A. No, Sir, I don't know.

Q. You will not venture to ſwear there was not a third perſon in the room?

A. To the beſt of my memory, Betty Aſpinall came through the room.

Q. Who was the perſon that helped you?

JOSEPH

JOSEPH GREGORY *ſworn.*

Mr. *Marryatt*—*Q.* Where do you live ?

A. With Mr. Stone, of Bedford—he did live in James'-ſtreet, Bedford-Row.

Q. Was you with Mr. Stone's family at Loweſtoff, in Suffolk ?

A. Yes, Sir.

Q. What time ?

A. Laſt September—it is a watering-place.

Q. Do you remember any perſon there of the name of Richards ?

A. Yes, Sir.

Q. Was he at Loweſtoff while you was there?

A. Yes, Sir.

Q. Was Mrs. Middelton there ?

A. There was a woman who went by the name of Middelton—I did not know her before.

Q. What was her mother's name ?

A. I do not know, Sir.

Q. Did you obſerve any thing between Mrs. Middelton and a perſon that paſſed by the name of Richards ?

A. I did.

Q. What obſervations did you make?

A. I ſaw this lady who went by the name of Middelton riding out—I frequently uſed to go out a-fiſhing in the evening, and I uſed to ſee this lady riding out in an undreſs, and in the evening walking down in the fiſhery with this man, who went by the name of Richards. I had the curioſity one night to watch, and ſee if I knew this man. Mr. Curtis ſays to me, They are juſt gone down : I followed them for a quarter of a mile ; I paſſed them ſeveral times ; I had a little dog with me, and Mrs. Middelton made the obſervation, What a pretty little dog that is ! She had a large red and white ſpaniel, which my dog played with—they went a quarter of a mile beyond the fiſhery—they returned, and I paſſed them again—they ſtopped and looked at thedifferent parts where they dreſſed the herrings—I went down as far as Mr. Clarke's yard, and I ſaid, If you will come out now, they are coming down—they paſſed me, and I did not go any more after them. Some time about a day or two after, I heard Mrs. Middelton ſay——

Sheriff—Any thing you heard them ſay it is improper to tell us.

Q. Did you ſee them again ?

A. Very

A. Very often before that, but not to take any particular notice as I did that night.

Q. You ſay it ſtruck you, as you ſometimes ſaw her riding out with Lady Albemarle and people of rank?

A. Yes, Sir; it raiſed my curioſity when I ſaw her with this man, and I thought I might know him.

Q. You ſay they often walked out together; did they walk familiarly together?

A. Yes, Sir.

Q. By the ſea ſhore?

A. Yes, Sir, under the fiſhery; not in the part where they walked for pleaſure, but in a retired place.

Q. I don't know whether you was preſent at the time the writ was ſerved on the defendant?

A. I was there after it was ſerved—I was there before they left the room—It was ſerved in Chapel-ſtreet, Tottenham-Court-Road. The houſe has a grotto front, and the man who keeps it is a taylor, or ſomething of that ſort.

Q. Was the perſon that you ſaw ſerved with the writ, the ſame perſon that was at Yarmouth walking with Mrs. Middelton?

A. It was the very ſame man I ſaw with Mrs. Middelton at Loweſtoff.

Q. Did you learn from him whether his name was really Roſe?

A. No, I did not.

Q. Some time after was you with Mr. Dorſet?

A. Yes, I was, Sir.

Q. Was Roſe preſent at any part of the converſation?

A. No, he was not.

Q. Then I will not aſk you about it. Did you ſee Richards go from Loweſtoff?

A. Yes, the next morning he went in a cart, they call them Yarmouth carts—he went with a little trunk. When Mr. Dorſet called me down * he aſked Mrs. Middelton about it, and ſhe ſaid ſhe had never walked with any man.

* This alludes to a meeting of three or four perſons, who had obſerved Mrs. Middelton's familiarity with John Roſe, whom Mr. Dorſet procured to confront her with at her lodgings; after ſhe had denied to Mr. and Mrs. Dorſet, that John Roſe was at Loweſtoff, or that ſhe was acquainted with any perſon there of his deſcription.

Q. Upon

Q. Upon your being called upon to ſtate what you had ſeen, Richards went off?

A. Yes, Sir; he went in what is called a Yarmouth cart, and took his trunk with him.

Q. Did you ſee him afterwards?

A. Never, till I ſaw him in Chapel-ſtreet.

Croſs Examination.

Mr. *Allen*—*Q.* Did you know Mrs. Middelton at all?

A. No, Sir.

Q. Then you don't poſitively ſwear that it was her?

A. She anſwered by the name of Middelton when the ſervant went and called her down.

Q. When you ſaw Mrs. Middelton firſt, did you know her at that time?

A. I was told it was Mrs. Middelton.

Q. Then you know no further than that you was told it was her?

A. No, Sir.

Q. Have you ſeen the lady ſince?

A. No, Sir, not ſince I was calleddown.

Q. Have you ſeen Roſe ſince with any ſervant of Mrs. Middelton's who is now here?

A. No, Sir.

JOHN CARVER *ſworn.*

Mr. *Marryatt*—*Q.* I believe you are a builder at Loweſtoff?

A. Yes, I do a little building.

Q. Do you recollect Mrs. Middelton being there laſt ſummer?

A. Yes, Sir; I remember a lady being called Middelton at Mr. Allen's lodgings.

Q. Do you remember a man of the name of Richards?

A. Yes, I do, Sir.

Q. How long might they continue there?

A. About two months, but I cannot ſay exactly more or leſs.

Q. Both of them?

A. Yes, both of them. Richardſon was the name he went by.

Q. Did you obſerve whether Richardſon and the lady were acquainted at Yarmouth?

A. Not at Yarmouth, but at Loweſtoff. One morning at ſeven o'clock, as nearly as I can recollect, I was going to a field joining to Lord Cadogan's

eſtate, to get my horſe up. I had got a gate to get over about ſix feet high, and I laid my hands upon it to get over it, and there I ſaw this lady and John Richardſon arm in arm; but as ſoon as I appeared they unlocked their arms immediately and went on; I never followed them in the leaſt.

Q. Did you, at the deſire of Mr. Dorſet the banker, relate this affair?

A. Yes.

Q. Was John Roſe there?

A. Not at all.

Q. Did you ſee Richardſon at Loweſtoff afterwards?

A. Yes, Sir, after I had been to Mrs. Middelton's lodgings *. No; it was not after that, but after I ſaw them arm in arm.

Q. After the evening you went to Mrs. Middelton's, did you ſee Richardſon any more?

A. No, Sir.

Q. Have you ſeen any ſervant of Mrs. Middelton's there?

A. There is the man (*pointing to* William Greaves *then in Court*).

Q. He was with her at Loweſtoffe?

A. Yes, Sir.

Q. That man was with the lady at Loweſtoff!

A. Yes, Sir.

Croſs Examination.

Mr. *Allen.*—*Q.* About what time was this?

A. To the beſt of my recollection, in the month of September.

Q. You ſwear that this perſon, who went by the name of Richardſon, lived there two months?

A. Yes, more or leſs; I cannot ſpeak to juſt the time.

Q. Will you ſwear he was there one month?

A. I don't think that is neceſſary.

Q. It is neceſſary—Do you think he was there near two months?

A. I think he was about two months.

Q. Did you ſee him frequently?

A. Very often, ſometimes two or three times in a day.

* This witneſs was alſo at the meeting at Mrs. Middelton's lodgings referred to in the laſt note.

JOHN

JOHN CURTIS *ſworn.*

Mr. *Marryatt*—*Q.* Did you live at Loweſtoff?

A. Yes, Sir.

Q. Do you remember a lady there of the name of Middelton?

A. Yes, Sir, perfectly well.

Q. Do you remember John Richardſon being there?

A. Yes, Sir.

Q. How long were they there laſt ſummer?

A. I think they came the latter part of Auguſt, and went away about the middle of October.

Q. Did they both come at the ſame time?

A. I think he came after Mrs. Middelton; it might be a day or two, more or leſs, after ſhe came.

Q. Did you obſerve, whether there was any acquaintance between them?

A. Yes, Sir; my rope-grounds lay next the Dean's, which is rather a private walk, and I very often obſerved this Mr. Roſe or Richardſon and this Mrs. Middelton frequently walking there, and generally in the morning about bathing hour, and generally in the evening. She generally came under the Fiſh Offices, and Roſe generally uſed to croſs over to her. The greateſt familiarity I ever obſerved was, their walking arm in arm. I have ſeen them almoſt daily, hardly a day's intermiſſion; the greateſt familiarity was walking arm in arm, and in very cloſe converſation with each other; and alſo when they have ſeen me come out of my gate, I have took particular notice they have looked at each other as though they ſeemed very ſuſpicious of being obſerved.

Q. Was that man Mrs. Middelton's ſervant *(pointing to* William Greaves *then in Court)*?

A. That is the man—I ſaw him following Mrs. Middelton.

JOHN GOWING *ſworn.*

Mr. *Marryatt*—*Q.* You live at Loweſtoff?

A. Yes, Sir.

Q. And you are a rope-maker?

A. Yes, Sir.

Q. Do you remember Mrs. Middelton's being at Loweſtoff laſt ſummer?

A. Yes, Sir.

Q. Do you recollect a perſon of the name of Richardſon being there?

A. Yes, Sir.

Q. Will you tell us what you obſerved paſſed between them at Loweſtoff?

A. My firſt obſervation uſed to be to ſee Richardſon, who came down the latter end of the month of September, frequently walking by my rope-walk; and then he would be gone for the ſpace of two hours, and return with a lady arm in arm, who I afterwards heard was Mrs. Middelton; he paſſed me generally about three o'clock, and returned between four and five.

Q. The lady lodged at a Mr. Allen's?

A. Yes, Sir.

Q. What alteration took place in them afterwards?

A. Afterwards, I obſerved him frequently come down in the morning at eight o'clock, and walk to and fro, and aſk me indifferent queſtions reſpecting the buſineſs of rope-making. When the lady appeared, they joined together and walked away to the northward, and would be gone two or three hours at a time out of ſight, and then returned.

Q. When they ſaw you noticing them, did they do any thing?

A. I uſed to be ſo intent upon my work, that I never obſerved them. I have ſeen them frequently waiting about for one another; ſometimes one came firſt and ſometimes the other; I was conſcious they had been waiting for each other; I had two or three men who uſed to work with me, and they uſed to make the ſame remark.

Q. Do you remember any thing happening one afternoon? do you remember ſeeing Mrs. Middelton walking under the Fiſh Houſes?

A. I ſaw Mrs. Middelton come from the place where I knew ſhe lived, and walk under the Fiſh Houſes; I thought ſhe was waiting for him, and in about two minutes after he came. The lady came down firſt, and walked towards the ſea. When Mr. Richardſon came, he followed her, and turned to the left hand, and ſeemed to go the direct contrary courſe to her. She turned her head round and ſaw him; and they then met one another, and proceeded cloſe together till they came to me. In the courſe of their coming he laughed very hearty, and ſaid, I only ſtaid till I got one ſixpennyworth.

Q. Do you remember ſeeing a child being brought to them?

A. Yes, perfectly well; it was betwixt twelve and one o'clock on a Saturday.

Q. Whoſe child was it?

A. I aſ-

A. I afterwards heard it was Mrs. Middelton's; and Richardſon came up to the child and kiſſed it, but it would not kiſs him; they were not there above two or three minutes, and then Richardſon and that perſon walked away together.

Jury—*Q.* What is the ſize of the child?

A. It was an infant in arms.

Q. How old was it?

A. I cannot aſcertain the age of it, I ſuppoſe it was ſhort of a year old.

Croſs Examination.

Mr. *Allen*—*Q.* You did not know Mrs. Middelton yourſelf?

A. At firſt I did not know that was her name, but I knew it was the lady that lodged with Mr. Allen.

Q. Did you ever communicate your ſuſpicions to any body?

A. Yes, to the men I worked with; it was common talk over the town.

Q. Did you ever mention it to any perſon in particular?

A. I have talked of it to a hundred different people.

Q. Did you mention it to Mr. Dorſet?

A. I had no acquaintance with him.

WILLIAM HOTT *ſworn.*

Mr. *Marryatt*—*Q.* Did you live at Loweſtoff?

A. Yes, Sir.

Q. Do you remember Richards being at Loweſtoff?

A. Yes, Sir.

Q. Do you recollect ſeeing him, and his having a hare in his hand?

A. Yes, Sir.

Q. Was Mrs. Middelton there?

A. Yes, Sir.

Q. Will you tell us what he ſaid or did?

A. He walked along with the hare, and put it againſt Mrs. Middelton; we have a tan-houſe where they went in, and he kiſſed her there, for I heard the ſmack.

Q. You heard their lips ſmack?

A. Yes, Sir.

Croſs

Croſs Examination.

Q. Did you not ſee them ſmack?

A. No, but I heard them.

Q. So any other perſons might have been ſmacking in this houſe without it being Mrs. Middelton and this Mr. Richardſon; you only heard a noiſe, but did not ſee any body?

A. He was kiſſing the lady.

Q. You did not ſee him do it?

A. Yes, Sir; I looked over the gate and ſaw him.

Mr. *Marryatt*—*Q.* Was any body elſe in the tan-houſe beſides them?

A. No, Sir.

JEMIMA ELLIS *ſworn.*

Mr. *Marryatt*—*Q.* Do you live at Loweſtoff?

A. Yes, I do.

Q. Do you remember Mrs. Middelton being there?

A. Yes, I remember a lady called Mrs. Middelton, I know her no otherways.

Q. Where did ſhe lodge?

A. At Mr. Allen's.

Q. Did you know Mr. Richardſon?

A. Yes, Sir, I knew a man who was called Richardſon.

Q. Did you ever ſee him riding in a poſt-chaiſe?

A. Yes, Sir.

Q. Who was with him?

A. The lady who is called Mrs. Middelton.

Q. Did they walk together?

A. Yes, Sir; after that I have ſeen them walking together.

Q. Did you obſerve any thing particular paſs?

A. No, Sir.

Q. Had they a pair of horſes in the chaiſe?

A. Yes, Sir.

Croſs Examination.

Mr. *Allen*—*Q.* What ſort of a carriage was this?

A. An open chaiſe.

Q. Not a covered carriage?

A. No, Sir.

Q. An open carriage?

A. A common carriage.

Q. So that every body might have ſeen them?

A. Yes, Sir.

JOHN CROUCH *ſworn.*

Mr. *Marryatt*—*Q.* Are you ſervant to Mr. Dorſet the banker?

A. Yes, Sir.

Q. Was you at Loweſtoff laſt ſummer?

A. Yes, Sir; Mr. Dorſet's family was there.

Q. Was Mr. Dorſet acquainted with Mrs. Middelton?

A. Yes, Sir.

Q. Where did ſhe lodge?

A. At a china ſhop.

Q. Was Mr. Allen's the china ſhop?

A. Yes, Sir.

Q. Was that lady that lodged at Allen's the Mrs. Middelton that Mr. Dorſet was acquainted with?

A. Yes, Sir.

Q. Perhaps you know her in town?

A. Yes, Sir.

Q. Where does ſhe live in town?

A. I cannot recollect the ſtreet, but it is up by Portland Place.

Q. In the ſame houſe with her mother?

A. Yes, Sir.

Q. Was Mrs. Grace at Loweſtoff?

A. Yes, Sir.

Q. Did you happen to be preſent at Mr. Smith's the taylor's at the time the writ was ſerved in this action?

A. Yes, Sir.

Q. Did you ſee Mr. Richardſon there?

A. Yes, Sir.

Q. Was that the perſon you ſaw at Loweſtoff?

A. Yes, Sir, it was.

Q. Was that the perſon you ſaw walking with Mrs. Middelton?

A. Yes,

A. Yes, Sir, but once only.

Q. Was that man who ſtands there, Mrs. Middelton's ſervant *(pointing to* William Greaves) at Loweſtoff?

A. Yes, Sir.

Q. Is he ſervant to her now in town?

A. As far as I know, he is.

SARAH HALL *ſworn.*

Mr. *Marryatt*—*Q.* Are you a ſervant to Mr. Dorſet?

A. Yes, Sir.

Q. Did you know a man by the name of Richards?

A. Yes, Sir.

Q. You knew him at Loweſtoff by that name?

A. Yes, Sir; I was in the room with him, and I have ſeen him ſeveral times.

Q. did you happen to be ſent for by Mr. Maxwell when the writ was ſerved upon him?

A. Yes, Sir.

Q. Did you go to Mr. Smith's in conſequence of that?

A. Yes, Sir.

Q. Was that the man you ſaw at Loweſtoff that went by the name of Richards?

A. Yes, Sir, it was the ſame man.

Q. Was the Mrs. Middelton who was at Loweſtoff the ſame that was acquainted with Mr. Dorſet?

A. Yes, Sir; I knew her very well; I ſaw her the year before at Little Hampton.

Q. Mr. Dorſet had been acquainted with Mrs. Middelton at Little Hampton?

A. Yes, Sir.

Croſs Examination.

Mr. *Allen*—*Q.* Mr. Dorſet and his family and Mrs. Middelton were acquainted at Loweſtoff?

A. Yes, Sir.

Q. How long did that continue?

A. I cannot ſay.

Q. You

Q. You tell me you ſaw this man with Mrs. Middelton?

A. Yes; and I told my maſter of it—he came down the latter end of the week, and I ſaw him on the Saturday evening.

Q. About what time was the intimacy between Mr. Dorſet and Mrs. Middelton diſcontinued?

A. I believe, the beginning of October.

Sheriff—*Q.* Did you happen to ſee them together after the circumſtance was diſcovered to Mr. Dorſet?

A. No, Sir; I did not.

Q. Upon this being communicated, did the intercourſe ceaſe between Mrs. Middelton and Richardſon?

A. Yes, Sir—my maſter went and ſpoke about it.

Q. They did not viſit?

A. No, Sir.

Q. Did Mrs. Dorſet viſit afterwards?

A. No; ſhe did not—Mrs. Grace ſent ſeveral times, but Mrs. Dorſet would not viſit. She was ſeen riding out with Lady Albemarle, and an hour after walking with this fellow that lodged at the public-houſe.

Q. That you did not know?

A. I know that people have told me ſo.

ELIZABETH BARRETT *ſworn.*

Mr. *Marryatt*—*Q.* You are in the ſervice of Mr. Dorſet?

A. Yes, Sir.

Q. Was you at Loweſtoff?

A. Yes, Sir; I lived there till I came up with Mrs. Dorſet.

Q. Do you remember Richards being there?

A. Yes, Sir; he lived at my uncle's.

Q. What is he?

A. He keeps a public-houſe.

Q. Where did he remove to from your uncle's?

A. To the Compaſſes.

Q. Do you know why?

A. No, I don't know.

Q. He removed from your houſe to the Compaſſes?

A. Yes, Sir.

Q. How long did he lodge there before he left Loweſtoff?

A. He lodged at my uncle's about a month.

Q. Did Mr. Maxwell ſend for you at the time Richards was ſerved with a writ?

A. Yes, he did.

Q. Was the man you ſaw ſerved with the writ the man you ſaw at Loweſtoff?

A. Yes; the ſame man I had ſeen at Loweſtoff by the name of Richards.

Sheriff—Q. Where was the man when you ſaw him ſerved with the writ?

A. I cannot tell the name of the place.

Q. What part of the town?

A. I am a ſtranger, I cannot tell.

Q. Do you know that man that ſtands there?—(*pointing to* William Greaves.)

A. Yes. He uſed to come and fetch Mr. Richardſon's ſhoes to clean for him.

Q. Then that man, who is Mrs. Middelton's ſervant, uſed to fetch the ſhoes and linen of Richardſon to be cleaned for him?

A. Yes, Sir.

Mr. SMITH *ſworn.*

Mr. *Marryatt*—Q. Where do you live?

A. In Chapel-ſtreet, Tottenham-Court-Road.

Q. You carry on the buſineſs of a taylor?

A. I do, Sir.

Q. Do you recollect Roſe lodging at your houſe?

A. He took the lodgings of my mother in the name of Robinſon; he ſaid he had been in Ireland, Scotland, and ſeveral other places—Yarmouth, and ſeveral other places.

Q. Did he introduce to you any body as a relation of his?

A. He aſked my mother if he might take the liberty of bringing his ſiſter to breakfaſt with him; and ſhe ſaid, as his ſiſter, he might; and ſhe came as Miſs Robinſon.

Q. How long did he lodge at your houſe taking the name of Robinſon?

A. I think it was about two months.

Q. Did ſhe anſwer to the name of Miſs Robinſon?

A. Yes,

A. Yes, ſhe did.

Q. How frequently did ſhe come?

A. Every other day.

Q. About what time?

A. In the morning about breakfaſt time, about ten or eleven o'clock, ſometimes before he was up. One morning it happened ſhe came before he was up; ſhe went into a room where I have an organ; ſhe aſked the liberty of ſtaying there while he got up, and I was much entertained with her playing. There were ſome breeches pieces lying upon the deſk; he came in and addreſſed her as his ſiſter, and ſaid he would kiſs her, if ſhe would give him a pair of thoſe ſilk breeches. The bargain was made; ſhe aſked what they would come to; I told her two guineas; ſhe took her purſe out and put down the two guineas. I was going to take them up; but he was rather too ſharp for me, and took them up himſelf. She replied, Give Mr. Smith the two guineas. No, ſays he; it is time enough when the breeches are made.

Q. Did the kiſs paſs as well as the two guineas?

A. No, Sir, not in my preſence.

Q. You ſay, ſometimes this ſiſter uſed to come before Mr. Robinſon was up?

A. Yes, Sir.

Q. Did ſhe go into his bed-room?

A. No; ſhe would ſit below till he was up, and ſometimes ſit in my organ-room and play the organ.

Q. Did ſhe make any long viſits when ſhe came?

A. Not above half an hour.

Q. Were there any books? Did Mr. Robinſon bring any books with him?

A. There were two or three books.

Q. Did you obſerve any name in thoſe books?

A. Why, Sir, there was a name in the books, but it had been ſcratched out—I could very well perceive there had been the name of Middelton in them; it had been run over with a pen, but the name had been Middelton.

Q. Do you recollect, Sir, the time when this man was diſcovered to be at your houſe and ſerved with the writ?

A. He was at dinner with me.

Q. Who came?

A. There was a bailiff, Sir, and another gentleman came into the parlour, and he ſaid, That is John Roſe, I will take my oath. I was very much ſurpriſed,

as he had always gone by the name of Robinſon, and always paid me very well and honourably, or I ſhould not have aſked him—He had the beſt of clothes, and paid me honeſtly. He then ſaid, Walk up ſtairs, gentlemen, and I will ſpeak to you.

Q. Did he anſwer to the name?

A. No, he did not—at firſt he ſaid, Deny me; but before he could get into a little back room, the bailiff entered and ſaw him.

Q. Did you ſuggeſt to him who was a proper perſon to be ſent to?

A. No, I did not, Sir. I was ſaying, Had you not better ſend to your ſiſter? Says he, Don't ſay my ſiſter ever came here, for ſhe is not my ſiſter.

Q. Did he add any thing when he ſaid, That is not my ſiſter?—Did he add at all what part of his family it was?

A. No, he did not.

Q. Did he ſay any thing about any piece of work?

A. No, Sir, not in the leaſt.

Q. After that, I believe, his ſiſter never came at all?

A. No. He ſtayed about three weeks, and I have never ſeen him ſince—there is a piece of paper that was found in his coat pocket, and two bills.

Q. What did he pay for his lodging?

A. Seven ſhillings a week.

Q. Did he make any obſervation about the woman, or lady, after he ſaid ſhe was not his ſiſter?

A. Not in the leaſt.

Q. You have been too ill, I believe, to go for the purpoſe of ſeeing whether Mrs. Middelton was the lady that came to your houſe?

A. Yes, Sir. I have been very ill theſe ſeven weeks.

Q. Do you remember that man coming? (*pointing to* William Greaves.)

A. Yes, Sir. I remember him coming very frequently.

Q. What did that man come for?

A. He came to ſee Mr. Robinſon as an acquaintance, for what I know.

Q. Did he come to fetch any thing away?

A. No, Sir. He was not there, I believe, when Mr. Robinſon took his things away.

Croſs Examination.

Mr. *Allen*—*Q.* This might have been any other perſon that viſited this Mr. Robinſon?

A. It

A. It might ſo, Sir. He told us his ſiſter was a lady's-maid, and lived in Wales.

Q. (*to Maltus.*) Was you preſent when the writ was ſerved?

A. No, I was not preſent.

Q. Was that man (*pointing to* William Greaves) that ſtands there, a ſervant that lived at Stockeld Park?

A. Yes, he lived at Stockeld Park.

Q. You was not preſent when the writ was ſerved?

A. I was not.

MARMADUKE MAXWELL, *Eſq. ſworn.*

Mr. *Marryatt*—*Q.* I believe, Sir, you are brother to Mr. Middelton?

A. I am, Sir.

Q. I believe you have changed your name from Middelton on account of an eſtate?

A. Yes, Sir.

Q. You are his own brother?

A. Yes, Sir.

Q. Did you ſee the writ ſerved upon Roſe?

A. Yes, Sir. I was in the room, and I ſaw the writ delivered to him.

Q. Was that the perſon that lived groom with your brother at Stockeld Park?

A. It was.

Q. And who was pointed out to you by the name of Robinſon?

A. Yes, Sir.

Q. I will juſt aſk you, whether your brother and his lady, previous to this affair, lived upon good terms?

A. The beſt terms poſſible.

Q. How many years previous to this diſcovery?

A. I ſuppoſe ten or eleven years, but I don't exactly recollect.

Q. How many children had ſhe brought him during that time?

A. I believe nine, Sir.

Q. How many children are living?

A. Six, I believe—Seven with her laſt.

Jury—*Q.* Has Mrs. Middelton any independent fortune of her own?

A. No, I believe not; but ſhe has a *ſalary* of 500l. a year.

Q. How does ſhe live and is ſupported now?

A. She

A. She lives at her mother's.

Sheriff—*Q.* It has been ſtated in the outſet of this buſineſs by the counſel, upon the circumſtance ariſing which gave ſuſpicion that Mrs. Middelton had been unfaithful to him, and had been made acquainted with the circumſtance, that you had diſcovered it to your brother?

A. Yes, I did.

Q. Will you give me leave, Sir, to aſk you, whether you mentioned it to your brother?

A. I did.

Croſs Examination.

Mr. *Allen*—*Q.* It ſeems to be miſunderſtood—You ſtated Mrs. Middelton has a ſettlement of 500l. a year; is that alimony?

A. No, it is 600l. a year.

Sheriff—*Q.* When did you diſcharge Roſe, Sir?

A. It was ſome time in December.

Q. What year?

A. In 1792, I believe.

Jury—*Q.* Is the alimony during the dependance of this ſuit only?

A. Yes, Sir.

Q. He was taken again into the houſe?

A. Yes, Sir.

Q. I believe that ſhe has ſeparate pin-money?

A. Yes, Sir, 100l. a year.

Q. Did he aſſign any reaſon why he took him again into his ſervice?

A. No, not as I recollect at preſent—I had left Stockeld for a long time.

Q. I believe, as ſoon as this man was gone you left Stockeld?

A. Yes, Sir, I did.

Mr. *Allen.*—Gentlemen of the Jury——After the very eloquent and pathetic ſpeech you have heard from the learned counſel who opened this buſineſs on behalf of Mr. Middelton, moſt undoubtedly I ſhall labour under very great diſadvantages in addreſſing you on the part of the defendant. I am ſure, if my feeble efforts extended beyond a bare ſtatement of ſome of the leading and material facts in this caſe, I ſhould be found very inadequate to the taſk. To attempt to go through the vaſt labyrinth of evidence which you have heard, and to make comments upon that evidence, would take up a vaſt deal of time; and at preſent I am ſure I am not capable of doing it. I have only two or

three obſervations to make, and thoſe perhaps may be material for your conſideration.

In the firſt place, there ſeems to be ſome impreſſion made upon your minds, that there is a relative intereſt between Mrs. Middelton and the defendant in the event of this ſuit.

Sheriff—I did not take it ſo, Mr. Allen.

Mr. *Marryatt*—If you have any thing to ſay upon that, I muſt examine Mr. Sykes.

Mr. *Allen*.—I am going to ſtate the circumſtances fairly to the Jury, how I became employed in this defence, leſt ſome unfavourable impreſſion ſhould be made upon them, as to the ſituation between the parties. I certainly was concerned for Mrs. Middelton ſome time ago, in bringing to juſtice *a man who had publiſhed a libel againſt her**. So far I was concerned for her, but in no other inſtance (for, as to the ſuit in the Eccleſiaſtical Court, that I have nothing to do with). But from having inſtituted that proſecution againſt the printer, it became material for me to ſee and be well acquainted with certain evidence that had been adduced in the Spiritual Court. Under that idea, Roſe no longer ago than yeſterday brought me the notice of executing the writ of enquiry, and begged I would attend here to-day on his behalf, *knowing* † *I was in poſſeſſion of this evidence*, and which without my aſſiſtance he could not poſſibly come at. I am now at liberty to ſay, and I pledge my character upon the aſſertion, that Mrs. Middelton has not directly or indirectly any the ſmalleſt intereſt in the event of this ſuit; and further, that her friends, many of whom bear *high and exalted* ſituations in this country, have adviſed her not to interfere at all in the matter ‡. She has already made her defence in another court; and when that proſecution is determined, then the truth and ſubſtance of the various charges will either be brought home and ſubſtantiated againſt her, or ſhe will be honourably acquitted of them.

Gentlemen,

* This was the printer of the Bon Ton Magazine; and it is a curious fact, that the proſecution was compromiſed by the printer conſenting to make no defence, and the proſecutor undertaking not to call him up for the judgment of the Court.

† As John Roſe never was a client of Mr. Allen, it would be matter of curioſity to inveſtigate the ſources of this *knowledge*.

‡ This appears little conſiſtent with the ideas of ſome of her friends, who probably inſerted the following paragraph in many of the daily papers:—"Middelton *verſus* Roſe: The public are requeſted to ſuſpend their judgment in the above cauſe, until ſuch time as a deciſion can be had in the Eccleſiaſtical

Gentlemen, if this action had been brought againſt any perſon but a man in Roſe's ſituation, probably it would have been tried in another place; but, Gentlemen, if you only for a moment look at the nature of the action, you will perceive it is a general charge againſt the defendant for a criminal intercourſe with Mrs. Middelton, and under that general charge it is impoſſible to know what particular fact the plaintiff or his counſel might attempt to prove; and conſequently it is as impoſſible for my client to defend himſelf, unleſs he ſubpœnaed near *ſeventy witneſſes* *; and to bring thoſe witneſſes from Yorkſhire, ſome from Ireland, and ſome I believe from the Continent, would be attended with an expence of many hundred pounds, which the defendant is totally incapable from his ſituation to pay or endure.

It was extremely diſagreeable to me to attend here to-day, when oppoſed to the abilities on the other ſide of the table. I had notice of my attendance being requiſite only yeſterday from Roſe, who then brought me the notice of executing the writ of enquiry. I had notice of judgment being ſigned in the action from Mr. Sykes †, but I was not concerned for Roſe at that time, and had nothing to do with him. However, Gentlemen, as it would have been productive of ſuch an enormous expence to this man to defend himſelf in this action, I think the wiſeſt ſtep he could take, and which he has taken, will be to throw himſelf upon your mercy. You have heard he is a footman, and that he has no poſſible means of ſubſiſtence but by his own induſtry and manual labour.

I have heard inſinuations thrown out, that he receives ſupport from another ſource. That has not been proved to you in any way whatever, nor has it been attempted to be proved. The only proof you have before you is, that he pays ſeven ſhillings a week for his lodgings; but that I conceive to be no very conſiderable ſum for a man ‡ *even in his ſituation.*

Eccleſiaſtical Court, where Mrs. Middelton will make her defence, and ſuch as ſhe truſts will vindicate her character to the world. It being the advice of Mrs. Middelton's friends and counſel to make no defence, but to allow judgment to go by default, the conſequence was averdict for Mr. Middelton."

* This ſeems a large circle of acquaintance and connexion for a ſtable boy.

† Mr. Sykes not only gave a written notice to Mr. Allen, but alſo to Mrs. Middelton, and Mr. Slade (her proctor), informing them that he had ſigned judgment, but which he would withdraw, and admit of a plea, in caſe ſhe choſe to profit of the opportunity of proving her innocence before the court.

‡ A menial ſervant, out of place and employment.

Under theſe circumſtances, he has been obliged to do what certainly in the eye of the law is conſidered as a tacit acknowledgment of his guilt; he has been compelled to let judgment go by default, from his total inability to ſupport the expence of bringing ſuch a multitude of witneſſes to town, in order to have the benefit of their teſtimony.

Gentlemen, after I have ſaid thus much, I beg only to make two or three obſervations as to the different cauſes for which I can ſuppoſe this action is brought.

If Mr. Middelton has brought this action to affect at all a deciſion in another court, where the evidence is gone through very much at length on both ſides, and where a decree is hereafter to be pronounced, I am at liberty to ſay it will be of no avail or effect whatever; for I believe it is certain that no verdict of a jury here can be given in evidence in the Eccleſiaſtical Court.

If he has done it upon another ground, namely, to ſupport an application to Parliament for a divorce, in that caſe he muſt be miſled; for, by the tenets of Mr. Middelton's religion (he being of the Roman Catholic perſuaſion), marriage is conſidered as a ſacrament, and is conſequently indiſſoluble: therefore, whatever may have been the imprudence of the parties accuſed, even if the charges were brought home to them, he cannot have any relief, becauſe the tenets of his religion preclude him from it.

If he has brought this action for a pecuniary conſideration, I am very much aſtoniſhed indeed. I had the honour of knowing a little of Mr. Middelton a few years ago; and I always believed him then, and I believe him ſtill to be, too much a man of honour to wiſh to ſeek a pecuniary compenſation from the hands of his groom, and more particularly ſuch a compenſation as he is totally incapable to pay.

If that is not the object, there is but one more that preſents itſelf to my view; namely, that Mr. Middelton chooſes either by your verdict to obtain ſuch heavy damages as ſhall for the future deprive the defendant totally of his liberty, or to carry this verdict in his pocket merely as a matter of triumph. I am ſure, Gentlemen, you will conſider the ſituation of a man in the ſervile capacity of the defendant; you will conſider his ſituation too well to give any enormous damages, which may be the means of making him linger out the remainder of his days in a priſon.

Gentlemen, throughout all the evidence which has been brought forward, very little indeed affords even the ſmalleſt probability of a criminal connection

between the defendant and Mrs. Middelton. Indeed there are ſome circumſtances which raiſe a poſſible conjecture; but there is not a ſingle fact throughout the whole of this caſe, *but one*, where any thing like even common familiarities are attempted to be proved to have paſſed between the parties. The proof that I allude to, and which ſeems to be the ſtrongeſt, is that of the tribune ſcene; and moſt undoubtedly, as I have called no witneſſes to contradict thoſe produced by Mr. Middelton, I am left without relief upon that ſubject: but it happens fortunately for Mrs. Middelton (for this man can have nothing to do with the ſuit in Doctors Commons), there is a direct contrary teſtimony brought forward in another place, and which I have no doubt will ultimately clear her character to the ſatisfaction and happineſs of all her friends and well-wiſhers. After having ſtated theſe circumſtances to you, I think, even ſuppoſing you were convinced in your own minds the evidence you have heard is ſufficient to fix a criminality between the parties, yet there is one very material circumſtance occurs to my mind; namely, that in every tittle of evidence brought forward, *Mrs. Middelton has been attempted to be ſhewn the perſon who has deluded this man.* There is not one charge proved to-day to ſhew he made any advances to her. If therefore this ſtands uncontradicted (no witneſſes being called on behalf of the defendant, for the reaſons I have before given), you muſt take this circumſtance into your ſerious conſideration, and which I hope will have great weight with you in the verdict you are called upon to give: for, ſuppoſing for a moment Mrs. Middelton to be guilty (and which I beg to be underſtood is a mere ſuppoſition on this occaſion), if you believe the witneſſes you have heard examined, it appears that this man has been deluded by her, and not that he has made any improper advances to his miſtreſs.

Having ſaid thus much, I ſhall not take up any more of your time. I have only to ſay, By *a reſpectable jury* like this, I am perſuaded this man's circumſtances and ſituation will be duly conſidered. I am perſuaded you will not be led away by the eloquence of the learned counſel who opened the buſineſs, and who repreſented this to be a caſe of all others the moſt vicious. You will not ſuffer your minds to be biaſſed by his ſuperior abilities, or be induced to give a verdict of enormous damages beyond the reaſonable and poſſible ability of this man to pay, even ſuppoſing you were ſatisfied of his guilt; for, as I ſtated before, there cannot be a probable ground for Mr. Middelton bringing this action (at leaſt I think he cannot bring it) for a pecuniary conſideration; and

conſequently,

conſequently, that being the caſe, a ſmall meaſure of damages will ſuffice. The defendant muſt have a verdict againſt him, it is true; and it is for your verdict, it is for your humanity, to give thoſe moderate damages which the caſe requires: and I hope and truſt, in this inſtance, you will deal out that mercy to him, which, were you in a ſimilar ſituation, were you deprived of witneſſes and aſſiſtance from an inability to ſupport the expence of bringing counſel and witneſſes here; I ſay, under theſe circumſtances, you will, I am confident, ſhew that mercy to him, which, were you in his ſituation, and under ſimilar unfortunate circumſtances, you would hope and expect to receive from the hands of others.

Sheriff. Gentlemen of the Jury—It belongs to you to conſider what is to be the amount of your verdict. Upon the face of the buſineſs as it ſtands two facts are admitted: one, the marriage of Mr. and Mrs. Middelton; and the other, the adulterous intercourſe of the parties. The plaintiff has not been ſatisfied with that, but has gone into the whole hiſtory of the tranſaction.

It is not to be imputed as a fault, if the defendant does not come forward with evidence, becauſe the defendant did not ſtand upon equal terms. He certainly has not the aſſiſtance of counſel, but he has the aſſiſtance of a very eminent ſolicitor.

I did all that was incumbent upon me to aſcertain whether Mr. Middelton was at any and what time acquainted with the circumſtances of his wife's infidelity; and it is a material circumſtance, that he gave not the ſlighteſt encouragement to the leaſt indecorum. That would have been good evidence againſt him, if it could have been proved; but I muſt confeſs myſelf, looking at all the evidence with all the attention I am maſter of, I cannot diſcover a particle upon which a doubt can hang. The defendant was in the relative ſituation of a ſervant to the plaintiff, who is a man in a high ſituation and of great fortune; the defendant is a poor man, it is admitted. You are the proper conſervators of his fate in life; it is not ſufficient for him to ſay in his defence, I am a poor man, and therefore you are to give ſmall damages: for ſmall damages would throw an imputation upon the plaintiff's caſe, which no man would do even in the caſe of a civil contract, much leſs in a caſe of criminal intercourſe ſo ſerious as this.

I don't think it neceſſary or material to recapitulate the whole of the evidence

given upon the caſe which is at iſſue. You will judge of the tranſaction, which was carried on as much in ſecret as poſſible from the eye of Mr. Middelton, till he diſcovered it; you will conſider of the circumſtances, and under all give that verdict which you think fit for the plaintiff to receive, and thoſe damages which under all the circumſtances the defendant ought to pay.

The Jury brought in a verdict for the plaintiff—Damages 500l.

FINIS.

MVSEVM BRITAN NICVM